

**UNITED STATES DISTRICT COURT**  
**FOR THE NORTHERN DISTRICT OF ILLINOIS**

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LOVETT AUTO & TRACTOR  
PARTS, INC., on behalf of itself and all  
others similarly situated,

Plaintiff,

v.

CHAMPION LABORATORIES, INC.,  
PUROLATOR FILTERS N.A. L.L.C.,  
HONEYWELL INTERNATIONAL  
INC., WIX FILTRATION CORP, LLC,  
CUMMINS FILTRATION INC.,  
DONALDSON COMPANY,  
BALDWIN FILTERS INC., BOSCH  
U.S.A., MANN + HUMMEL U.S.A.,  
INC., and ARVINMERITOR, INC.,

Defendants.

Case No.: 08-CV-2046

Judge Robert W. Gettleman  
Magistrate Judge Arlander Keys

**DECLARATION OF PATRICK M. COLLINS**

I, Patrick M. Collins, declare and state as follows:

1. I am a partner with the law firm of Perkins Coie LLP. I am licensed to practice law in the state of Illinois and am admitted to practice before the United States District Court for the Northern District of Illinois. I am one of the counsel of record for Honeywell International Inc. in this case.

2. Attached hereto as Exhibit 1 is a true and correct copy of the Memorandum of Law in Support of Motion of Plaintiff Lovett Auto & Tractor Parts, Inc. for Transfer of Actions to the Northern District of Illinois Pursuant to 28 U.S.C. § 1407 for Coordinated or Consolidated Pretrial Proceedings.

3. Attached hereto as Exhibit 2 is a true and correct copy of the Memorandum of Law in Support of Motion of Plaintiffs S&E Quick Lube Distributors, Inc., et al., in Support of the Transfer and Consolidation of Related Antitrust Actions in the District of Connecticut for Pretrial Proceedings.

4. Attached hereto as Exhibit 3 is a true and correct copy of Neptune Warehouse Distributors, Inc.'s Joinder to Lovett Auto & Tractor Parts, Inc. Motion for Transfer of Actions to the Northern District of Illinois Pursuant to 28 U.S.C. § 1407 for Coordinated or Consolidated Pretrial Proceedings.

5. Attached hereto as Exhibit 4 is a true and correct copy of Big T Inc. and Manasek Auto Part Inc.'s Joint Motion for Transfer of Related Antitrust Actions to The Southern District of Illinois Pursuant to 28 U.S.C. § 1407 for Coordinated or Consolidated Pretrial Proceedings and the Memorandum of Law in Support of that motion.

6. Attached hereto as Exhibit 5 is a true and correct copy of Worldwide Equipment, Inc. and Central Warehouse Sales Corporation's Joint Memorandum of Law in Support of their Motion Pursuant to 28 U.S.C. § 1407 for Transfer of Actions to the District of New Jersey for Centralized Pretrial Proceedings.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 30, 2008

Respectfully submitted,

By: /s/ Patrick M. Collins

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*Counsel for Defendant Honeywell  
International Inc.*

**CERTIFICATE OF SERVICE**

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I hereby certify that, on this 30th day of May 2008, a copy of the foregoing Declaration of Patrick M. Collins was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by email to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF System.

/s/ Patrick M. Collins

# **EXHIBIT 1**



CORPORATION SERVICE COMPANY®

## Notice of Service of Process

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Transmittal Number: 5719122  
Date Processed: 04/15/2008

**Primary Contact:** Meg Johnson-Law Dept- Ab-2  
Honeywell International Inc.  
101 Columbia Rd.  
  
Morristown, NJ 07962

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<b>Entity:</b>	Honeywell International Inc. Entity ID Number 2034040
<b>Entity Served:</b>	Honeywell International Inc.
<b>Title of Action:</b>	Lovett Auto & Tractor Parts, Inc. vs. Champion Laboratories, Inc.
<b>Document(s) Type:</b>	Schedule of Actions
<b>Nature of Action:</b>	Other
<b>Case Number:</b>	Multi-Case
<b>Jurisdiction Served:</b>	Illinois
<b>Date Served on CSC:</b>	04/14/2008
<b>Answer or Appearance Due:</b>	Other/NA
<b>Originally Served On:</b>	CSC
<b>How Served:</b>	Personal Service
<b>Sender Information:</b>	Stephen E. Morrissey 713-651-9366

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**BEFORE THE JUDICIAL PANEL ON  
MULTIDISTRICT LITIGATION**

In re Filters Antitrust Litigation

MDL-\_\_\_\_\_

**Proof of Service**

I hereby certify that a copy of the foregoing Motion, Brief, Schedule of Actions and this Certificate of Service was served by First Class U.S. Mail on April 11, 2008, to the following:

Clerk, U.S. District Court  
District of Connecticut  
141 Church Street  
New Haven, Connecticut 06510

Clerk, U.S. District Court  
Northern District of Illinois  
219 South Dearborn Street  
Chicago, IL 60604

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**Counsel for Plaintiff:** William C. Bruene d/b/a Lone Star Lube, D. Conn., 3:08-CV-00522-SRU.

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**Counsel for Plaintiff:** William C. Bruene d/b/a Lone Star Lube, D. Conn., 3:08-CV-00522-SRU.

**Counsel for Defendants:** Unknown – Defendants will be served through each party's agent for service of process. The named Defendants are: Champion Laboratories, Inc.; Purolator Filters N.A. L.L.C.; Honeywell International Inc.; Wix Filtration Corp L.L.C.; Cummins Filtration, Inc.; The Donaldson Company; Baldwin Filters, Inc.; Bosch U.S.A.; Mann + Hummell U.S.A., Inc.; Arvinmeritor, Inc.; United Components, Inc.; and The Carlye Group.



Before the Judicial Panel on Multidistrict Litigation  
MDL-\_\_\_\_\_ – In re Filters Antitrust Litigation

SCHEDULE OF ACTIONS

Case Captions	Court	Civil Action No.	Judge
<b>Plaintiff:</b> Lovett Auto & Tractor Parts, Inc. <b>Movant:</b> Lovett Auto & Tractor Parts, Inc. <b>Defendants:</b> Champion Laboratories, Inc.; Purolator Filters N.A. L.L.C.; Honeywell International Inc.; Wix Filtration Corp. LLC; Cummins Filtration, Inc.; The Donaldson Company; Baldwin Filters, Inc.; Bosch U.S.A.; Mann + Hummell U.S.A., Inc.; Arvinmeritor, Inc.	N.D. Illinois	08-CV-2046	Robert W. Gettleman
<b>Plaintiff:</b> Packard Automotive, Inc. <b>Defendants:</b> Champion Laboratories, Inc.; Purolator Filters N.A. L.L.C.; Honeywell International Inc.; Wix Filtration Products; Cummins Filtration, Inc.; The Donaldson Company; Baldwin Filters, Inc.; Bosch U.S.A.; Mann + Hummell U.S.A., Inc.; Arvinmeritor, Inc.; United Components, Inc.; The Carlyle Group	N.D. Illinois	1:08-CV-1950	Matthew F. Kennelly
<b>Plaintiff:</b> S&E Quick Lube Distributors Inc. <b>Defendants:</b> Champion Laboratories, Inc.; Purolator Filters N.A. L.L.C.; Honeywell International Inc.; Wix Filtration Products; Cummins Filtration, Inc.; The Donaldson Company; Baldwin Filters, Inc.; Bosch U.S.A.; Mann + Hummell U.S.A., Inc.; Arvinmeritor, Inc.; United Components, Inc.; The Carlyle Group	D. Connecticut	3:08-CV-00475-JBA	Janet Bond Arterton
<b>Plaintiff:</b> Flash Sales, Inc.	D. Connecticut	3:08-CV-00512-CFD	Christopher F. Droney

<b>Defendants:</b> Champion Laboratories, Inc.; Purolator Filters N.A. L.L.C.; Honeywell International Inc.; Wix Filtration Products; Cummins Filtration, Inc.; The Donaldson Company; Baldwin Filters, Inc.; Bosch U.S.A.; Mann + Hummell U.S.A., Inc.; Arvinmeritor, Inc.; United Components, Inc.; The Carlyle Group			
<b>Plaintiff:</b> William C. Bruene d/b/a Lone Star Lube  <b>Defendants:</b> Champion Laboratories, Inc.; Purolator Filters N.A. L.L.C.; Honeywell International Inc.; Wix Filtration Products; Cummins Filtration, Inc.; The Donaldson Company; Baldwin Filters, Inc.; Bosch U.S.A.; Mann + Hummell U.S.A., Inc.; Arvinmeritor, Inc.; United Components, Inc.; The Carlyle Group	<b>D. Connecticut</b>	3:08-CV-00522-SRU	Stefan R. Underhill
<b>Plaintiff:</b> T.D.S. Company, Inc. d/b/a TWI Auto Parts & Supplies  <b>Defendants:</b> Champion Laboratories, Inc.; Purolator Filters N.A. L.L.C.; Honeywell International Inc.; Wix Filtration Products; Cummins Filtration, Inc.; The Donaldson Company; Baldwin Filters, Inc.; Bosch U.S.A.; Mann + Hummell U.S.A., Inc.; Arvinmeritor, Inc.; United Components, Inc.; The Carlyle Group	<b>D. Connecticut</b>	3:08-CV-00528-MRK	Mark R. Kravitz

BEFORE THE JUDICIAL PANEL ON  
MULTIDISTRICT LITIGATION

In re Filters Antitrust Litigation

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MDL- \_\_\_\_\_

**MOTION OF PLAINTIFF LOVETT AUTO & TRACTOR PARTS, INC.  
FOR TRANSFER OF ACTIONS TO THE NORTHERN DISTRICT OF ILLINOIS  
PURSUANT TO 28 U.S.C. § 1407 FOR COORDINATED OR CONSOLIDATED  
PRETRIAL PROCEEDINGS**

***Oral Argument Requested***

Lovett Auto & Tractor Parts, Inc. ("Movant"), plaintiff in an action styled *Lovett Auto & Tractor Parts, Inc. v. Champion Labs., Inc. et al.*, United States District Court for the Northern District of Illinois, Case Number 08-CV-2046, respectfully moves the Panel pursuant to 28 U.S.C. § 1407 and Rule 7.2 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation for an Order transferring to the Northern District of Illinois for coordinated or consolidated pretrial proceedings all actions (the "Pending Actions") listed on the Schedule of Actions (attached as Exhibit A) and any and all additional related actions that may be brought to the attention of the Judicial Panel on Multidistrict Litigation ("Panel"). The Pending Actions all involve, among others, Defendants Champion Laboratories, Inc.; Purolator Filters N.A. L.L.C.; Honeywell International Inc.; Wix Filtration Corp. LLC; Cummins Filtration, Inc.; The Donaldson Company; Baldwin Filters, Inc.; Bosch U.S.A.; Mann + Hummell U.S.A., Inc.; and Arvinmeritor, Inc. (collectively the "Common Defendants").

As indicated in the Schedule of Actions, similar putative class actions are pending in the Northern District of Illinois and the District of Connecticut. As set forth below and in the accompanying Memorandum, the Pending Actions satisfy the requirements for

transfer and consolidation and/or coordination because they concern common questions of fact and law, and consolidation or coordination in the Northern District of Illinois would best serve the convenience of the parties and witnesses and will promote the just and efficient conduct of all actions.

In accordance with Rule 7.2, Movant submits a Memorandum in support of transfer and coordination or consolidation and the Schedule of Actions. For the Panel's reference and convenience, Movant also submit copies of the current Complaints filed in all known Pending Actions (attached as Exhibits B, C, D and E).


As set forth in more detail in the accompanying Memorandum, the grounds of this Motion are as follows:

1. All Pending Actions arise from the Common Defendants' unlawful price-fixing of oil, air, fuel and transmission filters (collectively "Filters") in violation of Section 1 of the Sherman Act, *15 U.S.C. § 1*,
2. All Pending Actions allege similar or identical antitrust legal theories and seek class-wide equitable relief, damages, and reasonable attorneys' fees on behalf of a nationwide class of direct or indirect purchasers of Filters.
3. All Pending Actions were filed within the past few weeks and are in their infancy. Defendants have not filed a responsive pleading in any Pending Action.
4. Transfer and coordination or consolidation of all Pending Actions and any future "tag-along actions" in the Southern District of Illinois will: (a) promote judicial economy; (b) eliminate the risk of inconsistent rulings on pretrial issues; (c) alleviate duplicative discovery; and (d) best serve the convenience of the parties, the witnesses, and the judiciary.

5. The Northern District of Illinois is the most appropriate forum for transfer because: (i) four of the ten Common Defendants, Purolator Filters N.A. L.L.C; Bosch U.S.A.; Mann + Hummel U.S.A., Inc.; and Champion Laboratories, Inc. are located in, or in close proximity to, the Northern District of Illinois, and thus substantial documents and discovery are located in or in close proximity to this District; (ii) there is wrongful termination litigation by a former employee of two of the Common Defendants pending in the Southern District of Illinois against Defendant Champion Laboratories, Inc. which involves discovery of the antitrust issues underlying the claims in the Pending Actions and from which the litigants and parties can realize substantial efficiencies; (iii) the Northern District of Illinois has the experience, time and resources to manage this complex litigation; and (iv) the Northern District of Illinois is centrally located and convenient to all parties.

WHEREFORE, Movant respectfully requests that the Panel enter an Order under 28 U.S.C. § 1407, transferring and coordinating or consolidating all Pending Actions, as well as any "tag-along actions" to the Northern District of Illinois for consolidated and/or coordinated pretrial proceedings and for all other appropriate relief.

Respectfully submitted this 11 day of April, 2008.

  
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BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

In re Filters Antitrust Litigation

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MDL- \_\_\_\_\_

**BRIEF IN SUPPORT OF PLAINTIFF LOVETT AUTO & TRACTOR PARTS,  
INC.'S MOTION FOR TRANSFER OF ACTIONS TO THE NORTHERN  
DISTRICT OF ILLINOIS PURSUANT TO 28 U.S.C. § 1407 FOR  
COORDINATED OR CONSOLIDATED PRETRIAL PROCEEDINGS**

*Oral Argument Requested*

Lovett Auto & Tractor Parts, Inc. ("Movant"), plaintiff in an action styled *Lovett Auto & Tractor Parts, Inc. v. Champion Labs., Inc., et al.*, United States District Court for the Northern District of Illinois, Case Number 08-CV-2046, respectfully files this Memorandum in Support of Motion for Consolidation and Transfer of Pretrial Proceedings under 28 U.S.C. §1407 and Rule 7.2(a)(1) of the Rules of Procedure for the Judicial Panel on Multidistrict Litigation ("Panel").<sup>1</sup> Specifically, Movant files this Memorandum in Support of its Motion for an Order transferring all actions (the "Pending Actions") listed on the Schedule of Actions (attached as Exhibit A thereto) to the United States District Court for the Northern District of Illinois, where the Movant's action is pending, for consolidated or coordinated proceedings. Movant also respectfully requests that any subsequently filed "tag-along" actions brought in other courts be similarly transferred and consolidated under Rule 7.5 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation.

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<sup>1</sup> Pursuant to Panel Rule 7.2(a)(ii), attached as Exhibit "A" to the accompanying Motion is a Schedule of Actions that Movant is seeking to consolidate and transfer.

## I. BACKGROUND

The Pending Actions have been brought by direct or indirect purchasers of aftermarket oil, air, fuel and transmission filters (“Filters”) as class action antitrust lawsuits against, among others, Champion Laboratories, Inc.; Purolator Filters N.A. L.L.C.; Honeywell International Inc.; Wix Filtration Corp. LLC; Cummins Filtration, Inc.; The Donaldson Company; Baldwin Filters, Inc.; Bosch U.S.A.; Mann + Hummell U.S.A., Inc.; and Arvinmeritor, Inc. (collectively the “Common Defendants”). At present, two actions on behalf of one direct purchaser and one indirect purchaser of Filters are pending in the Northern District of Illinois<sup>2</sup> and four actions on behalf of four direct purchasers of Filters are pending in the District of Connecticut. The plaintiffs in these actions seek damages and injunctive relief as a result of the Common Defendants’ unlawful price-fixing of Filters.

Generally, plaintiffs in the Pending Actions allege that the Common Defendants engaged in a deliberate and calculated scheme to unlawfully fix, raise, maintain or stabilize prices of Filters to the detriment of plaintiffs and the class(es) they seek to represent. All Plaintiffs further allege that the Common Defendants’ coordinated price increases through secret meetings and illegal exchanges of confidential pricing information.

As a result of the Common Defendants’ conduct, plaintiffs in the Pending Actions have alleged violations of the federal antitrust laws on behalf of classes of direct or indirect purchasers of Filters. The Pending Actions necessarily share core common questions of fact, and invariably will generate duplicative and overlapping discovery

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<sup>2</sup> Movant filed its complaint in the Northern District of Illinois on April 10, 2008.



requests and disputes. Accordingly, transfer and coordination or consolidation of the actions will best serve the interests of justice and efficiency by permitting a single court to coordinate discovery and resolve disputes common to the Pending Actions, thus avoiding unnecessary taxing of the judicial system's and the litigant's finite resources. As set forth more fully below, given, among other things: (i) the location of four of the ten Common Defendants in the Northern District of Illinois or in close proximity thereto, (ii) this Court's central location and ability to timely preside over this complex litigation, and (iii) the related antitrust discovery which is about to commence in a wrongful termination suit against a Common Defendant action in the Benton Division of the Southern District of Illinois, transfer of the related actions to the Northern District of Illinois will best effectuate the goals of 28 U.S.C. § 1407 and Movant respectfully requests that the Panel transfer all Pending Actions there.

## II. LEGAL STANDARD

The underlying purpose of transferring related actions under 28 U.S.C. § 1407 is to serve the convenience of the parties and witnesses and promote the just and efficient adjudication of actions pending in multiple districts by providing for the centralized management of pretrial proceedings under a single court's supervision. *In re Hydrogen Peroxide Antitrust Litig.*, 374 F. Supp. 2d 1345, 1346 (J.P.M.L. 2005); *In re Dynamic Random Access Memory (DRAM) Antitrust Litig.*, 228 F. Supp. 2d 1379, 1380 (J.P.M.L. 2002). Transferring actions to a single court pursuant to Section 1407 is appropriate where, as here, transfer will minimize duplication of discovery requests and disputes and prevent inconsistent procedural determinations by courts of coordinate jurisdiction. *In re*

*Temporomandibular Joint (TMJ) Implant Products Liability Litig.*, 844 F. Supp. 1553, 1554 (J.P.M.L. 1994).

### III. ARGUMENT

#### A. The Litigation Satisfies the Requirements for Consolidation and Transfer Under 28 U.S.C. § 1407

Pretrial transfer and consolidation under Section 1407 is appropriate and necessary for this litigation. The Pending Actions involve similar antitrust allegations and legal standards, and they are numerous. Unless these cases are consolidated, the parties will incur unnecessary and excessive costs due to duplicative discovery, and will face the risk of inconsistent rulings on a variety of issues.

##### 1. The Litigation Involves Common Questions of Fact

A key factor for transferability and coordination under Section 1407 is the presence of common questions of fact. *In re Federal Election Campaign Act Litig.*, 511 F. Supp. 821, 823 (J.P.M.L. 1979). In assessing the appropriateness of consolidation under Section 1407, the Panel looks to the pleadings to determine the extent that common questions of fact are present. The Panel has ordered the transfer and consolidation of actions whose complaints contained “substantially similar” and contained “virtually identical allegations of fraudulent conduct.” *In re Industrial Wine Contracts Securities Litig.*, 386 F. Supp. 909, 911 (J.P.M.L. 1975) (per curiam).

The complaints in the Pending Actions clearly present common questions of fact. Each complaint is based on Defendants’ unlawful acts in fixing, raising, maintaining or stabilizing prices for Filters and seeks overcharge damages on behalf of classes of direct or indirect purchasers of Filters. For example, all of the complaints allege that due to the unlawful acts of the Defendants, prices for Filters have been and are higher than would be

the case absent Defendants' anticompetitive conduct, causing damages to the plaintiffs and the classes they seek to represent.

The Pending Actions thus satisfy 28 U.S.C. § 1407's threshold requirement that civil actions appropriate for transfer share one or more common questions of fact. Such issues include:

- Whether the Common Defendants have engaged in contracts, combinations, or a conspiracy to illegally fix, raise, maintain or stabilize prices of Filters;
- Whether plaintiffs and members of the classes were injured by Defendants' conduct, and, if so, the appropriate class-wide measure of damages for respective class members; and
- Whether plaintiffs and members of the classes are entitled to, among other things, equitable relief.

Moreover, as the Pending Actions at issue are antitrust class actions, they present exactly the type of litigation with complex facts for which consolidation was intended. *In re Multidistrict Private Civil Treble Damage Antitrust Litigation Involving IBM*, 302 F. Supp. 796, 799 (J.P.M.L. 1969).

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## 2. The Parties Face Duplicative Discovery Absent Transfer and Consolidation

Because the allegations regarding the Common Defendants in all of the Pending Actions are very similar, the parties in these cases face duplicative discovery if these cases are not consolidated and transferred. This is an important consideration for the Panel in that transfer and consolidation "ensure[s] that the actions are supervised by a single judge who, from day-to-day contact with all aspects of the litigation, will be in the best position to design a pretrial program that will prevent duplicative discovery, eliminate the possibility of conflicting rulings and substantially conserve the time and

efforts of the parties, the witnesses and the federal judiciary.” *In Re Resource Exploration, Inc. Securities Litig.*, 483 F.Supp. 817, 821 (J.P.M.L. 1980).

The parties in these actions will clearly engage in duplicative discovery absent consolidation. All plaintiffs will be seeking the same documentation and discovery from the Common Defendants. Similarly, the Common Defendants will likely raise the same discovery objections and seek the same protective orders and privileges in each Pending Action. However, if the Panel consolidates and transfers the cases, the parties will coordinate their efforts and thus avoid duplicative discovery disputes that will strain the resources of the parties, witnesses and the judiciary.

### **3. Transfer and Consolidation Will Prevent Inconsistent Pretrial Rulings**

In assessing the appropriateness of consolidation, the Panel often considers the possibility of inconsistent rulings on pretrial issues because of the possible res judicata or collateral estoppel effects on other cases. For example, the Panel granted a transfer in part to prevent inconsistent pretrial rulings in *In re Enron Corp. Securities, Derivative & “ERISA” Litig.*, 196 F. Supp. 2d 1375, 1376 (J.P.M.L. 2002). *See id.* (“Centralization under Section 1407 is necessary in order to eliminate duplicative discovery, prevent inconsistent pretrial rulings (especially with respect to questions of class certification), and conserve the resources of the parties, their counsel and the judiciary.”). Because the similarity of the allegations in the Pending Actions, including the fact that some plaintiffs seek to represent a similarly defined class, there is a strong likelihood of inconsistent rulings should the Pending Actions not be consolidated. Defendants are likely to present the same pretrial motions in each action and assert the same discovery objections and

privileges. Inconsistent rulings would pose a serious problem because the factual and legal allegations are virtually identical in each Pending Action.

Transfer and consolidation are appropriate in these circumstances because they will promote the just and efficient conduct of the litigation from the very outset of all Pending Actions. Centralized pretrial proceedings will eliminate the possibility of conflicting rulings in parallel proceedings that may interfere with the orderly administration of justice. *See In re Hotel Tel. Charge Antitrust Litig.*, 341 F. Supp. 771, 772 (J.P.M.L. 1972) (“We have frequently held that...threat of inconsistent judicial decisions of discovery, class and other issues requires transfer of multidistrict litigation to a single judge under Section 1407.”) (citing cases). Absent consolidation and coordination before a single court, different judges may reach conflicting decisions regarding critical issues such as class certification. The Panel has consistently found that transfer of actions to a single district court for consolidated or coordinated pretrial proceedings is appropriate where, as here, the risk of inconsistent class determinations exists. *See In re Bristol Bay, Alaska, Salmon Fishery Antitrust Litig.*, 424 F. Supp. 504, 507 (J.P.M.L. 1976) (“matters concerning class action certification should be included in the coordinated or consolidated pretrial proceedings in order to prevent inconsistent rulings and promote judicial efficiency”); *In re Roadway Express, Inc. Employment Practices Litig.*, 384 F. Supp. 612, 613 (J.P.M.L. 1974) (“Secondly, and perhaps crucially, the conflicting and overlapping class allegations contained in the complaints raise the indubitable possibility of inconsistent class determinations by courts of coordinate jurisdiction. We have consistently held that the existence of and the need to

eliminate this possibility presents a highly persuasive reason favoring transfer under Section 1407.”).

**4. There is Sufficient Numerosity to Support Transfer and Consolidation**

There are currently six cases pending before different judges in two separate jurisdictions. Other cases will likely be filed as well. The Panel has routinely ordered consolidation and transfer of three or fewer cases. *In re Philadelphia Life Ins. Co. Sales Practices Litig.*, 149 F. Supp. 2d 937, 938 (J.P.M.L. 2001) (granting transfer and consolidation of two cases); *In re Amoxicillin Patent & Antitrust Litig.*, 449 F. Supp. 601, 603 (J.P.M.L. 1978) (granting transfer and consolidation of three cases involving complex patent and antitrust issues); *In re Alodex Corp. Securities Litig.*, 380 F. Supp. 790, 791 (J.P.M.L. 1974) (granting transfer and consolidation of three cases); *In re CBS Licensing Antitrust Litig.*, 328 F. Supp. 511 (J.P.M.L. 1971) (granting transfer and consolidation of two cases). Moreover, where, as here, the actions share numerous complex questions of fact, the Panel has consolidated a relatively small number of actions. For example, in *In re First Nat’l Bank, Heavener, Okla. (First Mortgage Revenue Bonds) Sec. Litig.*, 451 F. Supp. 995 (J.P.M.L. 1978), the Panel consolidated two actions that arose from the same factual allegations and shared numerous “complex questions of fact.” *Id.* at 997. Accordingly, a sufficient number of actions exist to support the transfer and consolidation of the Pending Actions.

**B. The Northern District of Illinois is the Appropriate Transferee Forum**

An analysis of the applicable facts and relevant case law reveals that the Northern District of Illinois is the best choice for transfer and consolidation and/or coordination of pretrial proceedings. As Defendants have not filed a responsive pleading in any Pending

Action, all Pending Actions are in their infancy and thus the Panel can determine the appropriate transferee court based on which district has a geographic nexus to the facts at issue and which district can minimize the costs and inconvenience for all parties. As more fully explained below, the Northern District of Illinois is the most appropriate transferee court as: (i) four of the ten Common Defendants are located in the Northern District of Illinois or in close proximity thereto; (ii) a wrongful termination action with similar antitrust allegations is currently pending in the adjacent Southern District of Illinois;<sup>3</sup> (iii) the Northern District of Illinois has the experience, time and resources to manage this complex litigation; and (iv) the Northern District of Illinois is centrally located and convenient to all parties.

**1. Four of the Ten Common Defendants are Located in the Northern District of Illinois or In Close Proximity Thereto and Thus This District Has a Geographic Nexus to the Facts at Issue**

Defendant Purolator Filters N.A. L.L.C. and one of its parent companies, Defendant Bosch USA, are located in Broadview, Illinois, approximately twelve miles from the United States District Court for the Northern District of Illinois in Chicago.<sup>4</sup> Defendant Champion Laboratories, Inc. has its headquarters in Albion, Illinois, which is approximately two-hundred and seventy miles from the United States District Court for the Northern District of Illinois in Chicago. Similarly, Defendant Mann + Hummel U.S.A., Inc. is headquartered in Portage, Michigan, which is approximately one hundred

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<sup>3</sup> Movant contemplated Benton, Illinois in the Southern District of Illinois, the venue of the related non-class action, as a location for possible transfer and consolidation. However, given that Benton does not have a commercial airport, and for the other reasons stated herein, Movant believes instead that Chicago, in the Northern District of Illinois, is the most appropriate location for consolidation and transfer.

<sup>4</sup> Though Purolator Filters N.A. L.L.C. is headquartered in North Carolina, it lists its "Principal Mailing Address" with the North Carolina Secretary of State as 2800 S. 25th Ave., Broadview, Illinois 60155.

fifty miles from the United States District Court for the Northern District of Illinois. Thus, four of the ten Common Defendants are located in the Northern District of Illinois or in close proximity thereto.

Where, as here, principal defendants are located in or near a potential transferee court and substantial discovery is likely to take place in this jurisdiction, the Panel has found that this geographic nexus favors transfer to this jurisdiction. *See In re Webloyalty.com, Inc., Marketing and Sales Practices Litig.*, 474 F. Supp. 2d 1353, 1354 (J.P.M.L. 2007) (“The Panel is persuaded that the District of Massachusetts is an appropriate transferee district for this litigation. Webloyalty is headquartered nearby and it is likely to be the source of a substantial number of witnesses and documents subject to discovery.”); *In re CertainTeed Corp. Roofing Shingle Prods. Liability Litig.*, 474 F. Supp. 2d 1357, 1358 (J.P.M.L. 2007) (transferring to district which encompassed “the headquarters of the common defendant”); *In re Digital Music Antitrust Litig.*, 444 F. Supp. 2d 1351, 1352 (J.P.M.L. 2006) (transferring to district because, *inter alia*, “[m]ost defendants are headquartered [there], and some of the relevant witnesses and documents may be located there”); *In re Ditropan XL Antitrust Litig.*, 429 F. Supp. 2d 1364, 1366 (J.P.M.L. 2006) (transferring to district because, *inter alia*, “many of the relevant witnesses and documents are likely located in this district, where [defendant] is based”); *In re Live Concert Antitrust Litig.*, 429 F. Supp. 2d 1363, 1364 (J.P.M.L. 2006) (transferring to district because, *inter alia*, it was “likely that a substantial number of witnesses and documents” were located there because the defendant whose conduct was at issue was located there); *In re Hypodermic Products Antitrust Litig.*, 408 F. Supp. 2d 1356, 1357 (J.P.M.L. 2006) (transferring to district which was the location of the sole



common defendant); *In re Hydrogen Peroxide Antitrust Litig.*, 374 F. Supp. 2d 1345, 1346 (J.P.M.L. 2005) (transferring to district because, *inter alia*, it had “a nexus to the litigation” given the presence of two of the defendants in the jurisdiction).

In the instant litigation, many witnesses and documents will likely be found in or near the Northern District of Illinois and thus major discovery issues will likely arise in this jurisdiction. Moreover, as previously noted and fully discussed below, the related non-class litigation pending in the adjacent Southern District of Illinois involves active discovery related to the antitrust claims in the Pending Actions. This core geographic nexus to the litigation, which is not found in the District of Connecticut, strongly favors transfer to the Northern District of Illinois.

**2. There are Clear Efficiencies to Litigating this Matter in Chicago Given the Similar Antitrust Discovery in the Non-Class Litigation Pending in Benton, Illinois**

On January 19, 2006, William G. Burch, former employee of Defendant Champion Laboratories, Inc. (“Champion”) and Defendant Purolator Filters N.A. L.L.C., filed a complaint against Champion in state court in Tulsa, Oklahoma, alleging, among other things, that Mr. Burch was wrongfully terminated from his employment with Champion for knowing about, and subsequently reporting to authorities, the alleged antitrust violations at issue in the Pending Actions. Eleven days later, on January 30, 2006, Champion filed a lawsuit against Burch in the United States District Court for the Southern District of Illinois, Benton Division (Case No. 4:06-CV-04031-JPG-PMF, hereinafter the “Illinois Action”). The state court complaint in Oklahoma was removed to the United States District Court for the Northern District of Oklahoma on March 3, 2006 (Case No. 3:06-CV-00135-CVE-SAJ, hereinafter the “Oklahoma Action”).

The parties filed competing Motions to Dismiss or, In the Alternative, to Transfer Venue. Illinois Action, Doc. No. 14; Oklahoma Action, Doc. No. 13. In its papers, Champion noted that the District Court in Illinois had jurisdiction over the claims and that Illinois was an appropriate venue. Illinois Action, Doc. 13 at 12-13. Importantly, Champion also noted that “*transfer to Illinois would substantially promote the interests of convenience and justice*”. *Id.* at 13, emphasis added. The same is true in this case.

On November 21, 2006, the Southern District of Illinois denied Burch’s motion to transfer venue to the Northern District of Oklahoma, despite Burch’s complaint being first filed, finding that venue was appropriate in both courts. Illinois Action, Doc. No. 45. Faced with two virtually identical lawsuits pending in two separate jurisdictions, on December 14, 2006, the Oklahoma Court ordered the Oklahoma Action transferred to the Southern District of Illinois. Oklahoma Action, Doc. No. 43.

The discovery process is now well under way in the consolidated Illinois Action, and the Court recently ruled that extensive discovery related to Burch’s antitrust allegations is appropriate. Illinois Action, Doc. No. 81 (April 1, 2008). In so doing, the Court also ruled that a protective order requested by Champion to prohibit antitrust-related discovery was due to be denied. *Id.* Thus, the parties in this action, including Common Defendant Champion and other third-party Common Defendants, are about to engage in substantial antitrust discovery in Illinois.

Specifically, among other things, Burch has: (i) requested ten years’ worth of pricing information from Champion, (ii) proposed to serve more than a dozen subpoenas to Champion’s customers and other Common Defendants, and (iii) requested to depose fifteen current and former Champion employees and executives. Burch also requested:

All documents relating to Champion's pricing of automotive filters, including but not limited to:

- a. all documents relating to the price Champion charges or has proposed to charge any of Champion's customers for its automotive filters;
- b. all documents relating to any discounts Champion provides any of Champion's customers for automotive filters;
- c. copies of all Champion's automotive filter price lists;
- d. all documents relating to internal Champion communications concerning its pricing of automotive filters to any of Champion's customers;
- e. all documents relating to communications between Champion and Champion's competitors concerning Champion's automotive filter pricing; and
- f. all documents relating to evaluations, studies, analyses, presentations, comments, criticisms, or investigations concerning Champion's automotive filter price fixing.

See Illinois Action, Doc. No. 77 (March 18, 2008).

Given the commonalities between the antitrust allegations in the non-class Illinois Action and the antitrust claims in the Pending Actions, there are clear efficiencies in consolidating the Pending Actions in the Northern District of Illinois. Indeed, the Pending Actions are premised, in part, upon sworn testimony by Mr. Burch in the Southern District of Illinois action. Moreover, access to parties and witnesses, as well as consolidated document production, will be greatly increased, thus benefiting all involved.

In addition, consolidating the Pending Actions in the Northern District of Illinois removes the possibility of any conflict of law issues. This is especially important in antitrust litigation where different Circuit and District Courts may reach different results.

**3. The Northern District of Illinois Has the Experience, Time and Resources to Manage This Complex Litigation**

In choosing an appropriate transferee court, the Panel often examines whether the candidates have the necessary experience, time and resources to manage the litigation at issue. The Northern District of Illinois has the resources to devote the time to pretrial matters that this litigation is likely to require. The potential strain placed on the transferee Court's docket and resources is an important consideration, and one that militates in favor of the Northern District of Illinois. Given the nexus to the facts at issue and the ability and resources of the Northern District of Illinois, and the absence of such nexus to any other District, Movant respectfully submits that the Northern District of Illinois should be selected as the transferee Court.

**4. The Northern District of Illinois Is An Accessible, Geographically Central, Metropolitan District Convenient to the Litigants and Witnesses**

In addition to being the Court with the strongest nexus to this litigation, the Northern District of Illinois provides a central location allowing easy access for all litigants and witnesses. As previously noted, four of the ten Common Defendants are located in the Northern District of Illinois or in close proximity thereto. Moreover, Defendant Champion is utilizing Chicago counsel in the previously described action pending in the Southern District of Illinois.

For the parties and litigants not within driving distance of Chicago, Chicago O'Hare International Airport is one of America's best-connected airports. Over 70 million people a year travel through Chicago O'Hare International Airport, which was voted "Best Airport in North America" in 2000 by international travelers surveyed in *Business Traveler* magazine. O'Hare provides convenient access from all points of the

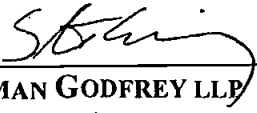
nation due to its geographically central location. Notably, direct flights are currently available from almost all major cities in the United States. Thus, the Northern District of Illinois sitting in Chicago would be a convenient transferee site for those parties and witnesses that are not already located within driving distance of the District. The Panel routinely assesses the ease of access to the transferee forum in selecting the transferee forum. *In re AirCrash Near Van Cleve, Miss., On August 13, 1977*, 486 F. Supp. 926, 928 (J.P.M.L. 1980); *In re A.H. Robins Co., Inc. "Dalkon Shield" IUD Prods. Liab. Litig.*, 406 F. Supp. 540, 543 (J.P.M.L. 1981). Here, not only are four Common Defendants found in or close to the Northern District of Illinois, this District is also accessible and convenient to all litigants and witnesses.

#### IV. CONCLUSION

Because the Pending Actions are in their infancy and Defendants have yet to even file a responsive pleading in any of the cases, the Panel should transfer and consolidate the Pending Actions to a forum which has a substantial nexus to the factual allegations at issue and has the ability, time and resources to manage this complex litigation. Because (i) four of the ten Common Defendants are found in or near the Northern District of Illinois; (ii) the Northern District of Illinois has the resources and ability to manage this litigation; (iii) there is litigation pending in the Southern District of Illinois which includes extensive antitrust discovery relevant to the Pending Actions and (iv) because the Northern District of Illinois is convenient to and accessible by all litigants and witnesses, Movant respectfully submits that the Northern District of Illinois is the most appropriate forum for consolidation or coordination. Accordingly, Movant respectfully

requests that the Panel transfer the Pending Actions under 28 U.S.C. § 1407 for coordination and/or consolidation in the Northern District of Illinois.

Respectfully submitted this 11 day of April, 2008.

  
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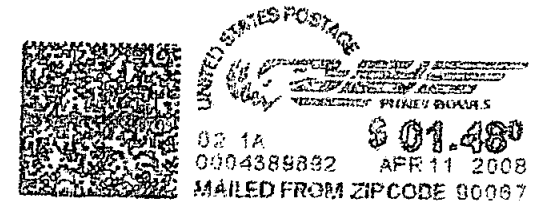
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# **FIRST CLASS MAIL**

**SUSMAN GODFREY L.L.P.**

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1901 AVENUE OF THE STARS  
LOS ANGELES, CALIFORNIA 90067-6029

**To**

Honeywell International Inc.  
Illinois Corporation Service C  
801 Adlai Stevenson Dr.  
Springfield, IL 62703

**FIRST CLASS MAIL**



# **EXHIBIT 2**

**Labaton  
Sucharow**

APR 21 2008

212 907 0827 direct  
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April 15, 2008

**VIA FEDERAL EXPRESS**

Clerk of the Panel  
Judicial Panel on Multidistrict Litigation  
Thurgood Marshall Federal Judiciary Building  
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Room G-255, North Lobby  
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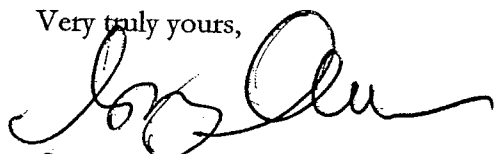
Re: *In re Filters Antitrust Litigation*

Dear Clerk of the Panel:

Enclosed please find a computer disc, an original and four copies of Motion of Plaintiffs S & E Quick Lube Distributors, Inc., Flash Sales, Inc., William C. Bruene d/b/a Lone Star Lube, T.D.S. Company, Inc. d/b/a TWI Auto Parts & Supplies and Barjan, LLC for Transfer and Consolidation of Related Antitrust Actions to the District of Connecticut For Pretrial Proceedings; accompanying Memorandum of Law and Exhibits, including the Schedule of Actions; and Certificate of Service, submitted on behalf of Plaintiffs S & E Quick Lube Distributors, Inc., Flash Sales, Inc., William C. Bruene d/b/a Lone Star Lube, T.D.S. Company, Inc. d/b/a TWI Auto Parts & Supplies and Barjan, LLC.

Please feel free to contact me should you have any questions.

Very truly yours,



Gregory Asciolla

Enclosures

cc: All Counsel on Attached Service List



**BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION**

IN RE FILTERS  
ANTITRUST LITIGATION

MDL DOCKET NO. \_\_\_\_

**MOTION OF PLAINTIFFS S&E QUICK LUBE  
DISTRIBUTORS, INC., FLASH SALES, INC., WILLIAM C. BRUENE D/B/A  
LONE STAR LUBE, T.D.S. COMPANY D/B/A TWI AUTO PARTS & SUPPLIES AND  
BARJAN, LLC IN SUPPORT OF THE TRANSFER AND CONSOLIDATION OF  
RELATED ANTITRUST ACTIONS IN THE DISTRICT OF CONNECTICUT  
FOR PRETRIAL PROCEEDINGS**

S&E Quick Lube Distributors, Inc., Flash Sales, Inc., William C. Bruene d/b/a Lone Star Lube, T.D.S. Company d/b/a TWI Auto Parts & Supplies and Barjan, LLC ("Moving Plaintiffs"), by their undersigned counsel, respectfully request the Judicial Panel on Multidistrict Litigation ("Panel") to issue an Order pursuant to 28 U.S.C. § 1407 for transfer and consolidation in the U.S. District Court for the District of Connecticut for pretrial proceedings of all pending, currently pending and later filed antitrust actions relating to a conspiracy to fix prices in the filters market.

1. To date, six antitrust direct purchaser class actions have been filed alleging a conspiracy to fix prices in the market for oil, air, fuel and transmission filters (“Filters”) in violation of Section 1 of the Sherman Act. The first-filed civil action is a class action filed in the U.S. District Court for the District of Connecticut on behalf of all direct purchasers of Filters (the “Connecticut Action”). A subsequent action was filed in the U.S. District Court for the Northern District of Illinois, Eastern Division (the “Illinois Action”). Pursuant to Rule 7.2(a)(ii) of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, a Schedule of Actions for which consolidation is requested is attached as Exhibit A to the accompanying memorandum in support of this motion (the “Actions”).

2. The Actions proposed for transfer and consolidation are based on the same operative facts and therefore “involv[e] one or more common questions of fact” as required by 28 U.S.C. § 1407(a). Common questions of fact are: (a) whether the defendants engaged in a combination and conspiracy among themselves to fix, raise, maintain, and/or stabilize prices of Filters in the United States; (b) the identity of the participants in the Defendants’ conspiracy; (c) the duration of the Defendants’ conspiracy and the nature and character of the facts performed by Defendants in furtherance of the conspiracy; (d) whether the Defendants’ conspiracy violated Section 1 of the Sherman Act; (e) whether the conduct of the Defendants caused injury to the business or property of the Plaintiffs and the members of the proposed class; (f) the effect of the Defendants’ conspiracy on the prices of Filters sold in the United States during the class period; and (g) the appropriate measure of damages sustained by the named Plaintiffs and members of the proposed class. As a consequence, transfer of the Actions for consolidation will prevent duplication of discovery, eliminate the possibility of conflicting pretrial rulings, and conserve judicial resources.


3. The U.S. District Court for the District of Connecticut is the appropriate forum for consolidation of the Actions for the reasons that follow. First, the first-filed case is pending there. Second, five of the six Actions are pending there and have progressed the farthest. Third, the most plaintiffs filed actions in the District of Connecticut, and the most plaintiffs and law firms support transfer to the District of Connecticut; Fourth, a major Defendant is located in the District of Connecticut; and Fifth, the District of Connecticut is geographically convenient for witnesses and counsel.

4. In addition, judicial caseload profiles indicate that the District of Connecticut is well suited to manage this complex litigation. It has the resources and personnel necessary for the management of an MDL proceeding.

WHEREFORE, the Moving Plaintiffs respectfully request that the MDL Panel issue an Order transferring the Illinois Action and all subsequently-filed related actions in the U.S. District Court in the District of Connecticut for consolidated pretrial proceedings.

Dated: April 15, 2008

Respectfully submitted,

  
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**BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION**

IN RE FILTERS  
ANTITRUST LITIGATION

MDL DOCKET NO. \_\_\_\_\_

**MEMORANDUM OF LAW IN SUPPORT OF MOTION OF PLAINTIFFS S&E  
QUICK LUBE DISTRIBUTORS, INC., FLASH SALES, INC., WILLIAM C. BRUENE  
D/B/A LONE STAR LUBE, T.D.S. COMPANY D/B/A TWI AUTO PARTS & SUPPLIES  
AND BARJAN, LLC IN SUPPORT OF THE TRANSFER AND CONSOLIDATION OF  
RELATED ANTITRUST ACTIONS IN THE DISTRICT OF CONNECTICUT  
FOR PRETRIAL PROCEEDINGS**

Pursuant to Rule 7.2(a) of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation ("Panel"), S&E Quick Lube Distributors, Inc. ("S&E Quick Lube") – plaintiff in the first-filed antitrust action filed in the U.S. District Court for the District of Connecticut – and Flash Sales, Inc. ("Flash Sales"), William C. Bruene d/b/a Lone Star Lube ("Lone Star"), T.D.S. Company d/b/a TWI Auto Parts & Supplies ("TWI") and Barjan, LLC ("Barjan") – plaintiffs in subsequent actions also filed in the U.S. District Court for the District of Connecticut (collectively, "Moving Plaintiffs") – respectfully submit this Memorandum of Law in Support of

their Motion for Transfer and Consolidation of Related Antitrust Actions in the District of Connecticut for Pretrial Proceedings pursuant to 28 U.S.C. § 1407.

### **FACTUAL BACKGROUND**

To date, six antitrust actions have been filed alleging a conspiracy to fix prices in the market for oil, fuel, air and transmission filters (“Filters”) in violation of Section 1 of the Sherman Act—five in the District of Connecticut and one in the Northern District of Illinois (collectively, the “Actions”). *See* Exhibit A, “Schedule of Actions.” The first, filed on March 31, 2008, is a direct purchaser class action filed by S&E Quick Lube in the U.S. District Court for the District of Connecticut on behalf of all direct purchasers of Filters. This action is assigned to the Honorable Judge Janet Bond Arterton.

Following the filing of the initial complaint, four other similar class action complaints were filed in the District of Connecticut. Importantly, the first-filed complaint, along with the four other complaints filed in Connecticut, base a substantial portion of their allegations, particularly with respect to the specifics of collusive meetings and agreements between and among the Defendants and their co-conspirators, on recorded conversations and the personal knowledge of, and information provided by, a confidential informant who was a senior sales executive employed by two of the Defendants.

On April 10, 2008, Lovett Auto & Tractor Parts, Inc. (“Lovett”) filed a similar action in the Eastern Division of the Northern District of Illinois. This complaint alleges claims based almost entirely on the allegations contained in the Connecticut actions. Significantly, Lovett does not have access and is not personally privy to the knowledge, information and underlying evidentiary materials provided to the Connecticut plaintiffs by the confidential informant.

The Actions involve common allegations of fact and law. Each alleges that Defendants conspired to fix, raise, maintain or stabilize prices for Filters over the same time period. Furthermore, based on essentially identical facts, the Actions assert antitrust claims under the Sherman Act, and seek similar relief. Thus, the Actions should be consolidated and transferred to a single District to prevent duplicative discovery and motion practice, avoid the possibility of inconsistent rulings, and conserve the resources of the courts and the litigants.

Plaintiffs submit that the U.S. District Court for the District of Connecticut is the appropriate forum for transfer and consolidation of the Actions for the following reasons:

- The first case was filed in the District of Connecticut;
- The Connecticut cases have progressed the farthest (*e.g.*, plaintiffs in the Connecticut actions have conducted an extensive investigation and have sole access to recorded conversations and the personal knowledge of, and underlying evidentiary information provided by, a confidential informant);
- The most actions are pending (5 of 6) in the District of Connecticut;
- The most plaintiffs (5 of 6) filed actions in the District of Connecticut;
- The most law firms (9 of 13) filed actions and support consolidation in the District of Connecticut;
- A major Defendant has offices and employees in Connecticut;
- The U.S. District Court in the District of Connecticut, located in New Haven, is easily accessible from anywhere in the United States; and
- The District of Connecticut has the experience and resources to handle the Actions.

### **ARGUMENT**

#### **I. The Actions Should Be Transferred and Consolidated For Pretrial Proceedings.**

Each of the Actions should be transferred and consolidated for pretrial proceedings pursuant to 28 U.S.C. § 1407(a), which permits transfer and consolidation of cases: (1) that “involv[e] one or more common questions of fact;”(2) where transfer will further “the

convenience of parties and witnesses;” and (3) where transfer “will promote the just and efficient conduct of [the] actions.” 28 U.S.C. § 1407(a); *see In re Cutter Labs., Inc. “Braunwald-Cutter” Aortic Heart Valve Products Liability Litigation*, 465 F. Supp. 1295, 1296 (J.P.M.L. 1979).

Transfer of the Actions to the District of Connecticut will satisfy each of these objectives.

**A. Transfer Is Appropriate Because The Actions Involve One or More Common Questions of Fact And Law.**

Each of the Actions alleges that Defendants conspired to fix, raise, maintain or stabilize prices for Filters over the same time period, in violation of the Sherman Act. The Panel consistently holds that cases involving overlapping factual and legal issues are particularly appropriate for transfer. *See In re Urethane Antitrust Litig.*, 333 F. Supp. 2d 1379-81 (J.P.M.L. 2004) (transferring related antitrust cases under § 1407 because, among other things, the cases “involved common questions of fact”); *In re Beef Indus. Antitrust Litig.*, 419 F. Supp. 720, 721 (J.P.M.L. 1976) (common factual issues concerning alleged antitrust conspiracy necessitated transfer); *In re Hawaiian Hotel Room Rate Antitrust Litig.*, 438 F. Supp. 935, 936 (J.P.M.L. 1977) (“As is often true in multidistrict antitrust litigation, the private actions raise common questions of fact concerning the existence, scope and effect of the alleged conspiracy.”). The Actions share common issues of fact and law, and therefore, should be transferred to one District.

**B. Transfer and Consolidation for Pretrial Proceedings Will Further the Convenience of Parties and Witnesses.**

Transfer of the Actions and consolidation for pretrial proceedings will also serve “the convenience of the parties and witnesses” in accordance with the second requirement of § 1407(a). Plaintiffs’ nearly identical allegations will require duplicative discovery and pretrial proceedings unless the Actions are consolidated for pretrial purposes in one District. In each case, the parties will seek discovery of the same body of documents.

For instance, each Plaintiff will seek to prove how Defendants determined and established the prices for Filters and how they communicated with one another. Plaintiffs will also seek to depose the same individuals. There is no reason to require the parties to respond to multiple motions and discovery requests or to require the parties and other witnesses to transmigrate across the U.S. to appear in multiple proceedings. Transfer and consolidation will solve these problems because it will permit the transferee judge to formulate a single, unified pretrial program that minimizes the inconvenience and overall expense for all parties and witnesses. *See In re Uranium Indus. Antitrust Litig.*, 458 F. Supp. 1223, 1229 (J.P.M.L. 1978) (consolidation appropriate where centralization of complex actions with international aspects would prevent duplicative discovery and inconsistent pretrial rulings); *In re European Rail Pass Antitrust Litig.*, No. MDL 1386, 2001 WL 587855, at \*1 (J.P.M.L. Feb. 7, 2001) (cases transferred to a single district to avoid duplicative discovery).

**C. Transfer and Consolidation for Pretrial Proceedings Will Promote The Just and Efficient Conduct of The Actions**

Transfer and consolidation of the Actions for pretrial proceedings will also “promote the just and efficient conduct of [the] actions” in accordance with the third requirement of § 1407(a). The Actions will likely involve the same pretrial issues, such as those concerning the nature and scope of discovery and concerning the sufficiency of Plaintiffs’ allegations. If each District were forced to resolve these issues in separate pretrial proceedings, scarce judicial resources would be wasted needlessly. Moreover, there would be a substantial likelihood that such duplicative proceedings might result in inconsistent rulings, especially regarding the important issue of class certification. Transfer and consolidation will avoid all of these problems. *See In re A.H. Robins Co. “Dalkon Shield” IUD Prods. Liab. Litig.*, 406 F. Supp. 540, 542 (J.P.M.L. 1975) (transfer necessary to prevent duplication of discovery and eliminate possibility of conflicting pretrial

rulings); *In re Hawaiian Hotel Room Rate Antitrust Litig.*, 438 F. Supp. at 936 (consolidation of five actions was necessary “in order to prevent duplication of discovery, eliminate the possibility of inconsistent pretrial rulings, and streamline the rest of the pretrial proceedings as well”); *In re Commercial Money Ctr., Inc. Equip. Lease Litig.*, No. MDL 1490, 2002 WL 31432881, at \*1 (J.P.M.L. Oct. 25, 2002) (consolidation of cases filed nationwide would prevent inconsistent rulings).

## **II. The Actions Should Be Transferred To The District of Connecticut**

The U.S. District Court for the District of Connecticut is the most appropriate venue for the transfer and consolidation of the Actions because it is the venue where the first case was filed; where the most cases are pending; where the cases have progressed the farthest; where the most plaintiffs and law firms filed and support consolidation; and where a major defendant is headquartered. It is also the venue that is most convenient to the parties and potential witnesses. Furthermore, the District of Connecticut possesses the requisite experience, resources and unburdened docket that would allow the Actions to move forward in an efficient and expeditious manner.

### **A. The District Court of Connecticut Is Where The First Case Was Filed, Where The Most Cases Are Pending, Where The Cases Have Progressed The Farthest And With The Most Support From Plaintiffs And Law Firms.**

The District of Connecticut is the venue where the first case was filed, and it is proceeding apace. All of the Defendants have been served in the first-filed Connecticut action. In addition, and significantly, the actions in Connecticut are each based on a months-long, comprehensive investigation by Labaton Sucharow LLP, which is listed as Counsel or Of Counsel on each of the actions filed in Connecticut. In these efforts, Labaton Sucharow has expended significant investigative and legal resources in working with the confidential informant, investigating the factual bases for the claims, conducting witness interviews, and

reviewing documentary materials and evidence, including probative recorded conversations. The first-filed complaint, along with the four other complaints filed in Connecticut, base a substantial portion of their allegations, particularly with respect to the specifics of collusive meetings and agreements among the Defendants, on recorded conversations and the personal knowledge of, and information provided by, a confidential informant who was a senior sales executive employed by two of the Defendants. The Plaintiffs in the Connecticut actions have exclusive possession of these critical materials and their counsel have sole access to the confidential informant. The plaintiff in the Illinois action does not have direct (or indirect) access to any of this critical underlying information.

The location of the first-filed case, as well as the advancement of the case, are factors the Panel considers important in determining where to transfer cases for consolidation in multidistrict litigation, and thus here, those factors point to the District of Connecticut as the appropriate transferee venue. *See In re Dual-Deck Video Cassette Recorder Antitrust Litigation*, 1988 U.S. Dist. LEXIS 17039, \*2 (J.P.M.L. Aug. 12, 1998) (stating that transfer to Arizona was appropriate because, *inter alia*, “the first-filed action [was] pending there”); *In re Baldwin-United Corp. Litigation*, 581 F. Supp. 739, 741 (J.P.M.L. 1984) (ordering transfer to New York, where the “first-filed and most advanced actions” were pending); *In re Hotel Telephone Charge Antitrust Litigation*, 341 F. Supp. 771, 773 (J.P.M.L. 1972) (stating that the most suitable transferee district was “where the first action was filed”); *In re Elevator and Escalator Antitrust Litig.*, 350 F.Supp.2d 1351, 1353 (J.P.M.L. 2004) (“*Elevators*”).

The District of Connecticut is also the venue where the most cases are pending. Of the six class actions that have been filed to date, five are currently pending in the District of Connecticut. The Panel also has consistently recognized a preference for a forum in which the

greatest number of related cases is pending. *See In re Temporomandibular Joint (TMJ) Implants Prods. Liab. Litig.*, 844 F. Supp. 1553, 1554 (J.P.M.L. 1994) (transferring twenty-nine actions to District of Minnesota where the greatest number of the actions were pending); *Elevators*, 350 F.Supp.2d at 1353 (holding transferee district “is where the first filed and largest number of actions are pending”); *In re Asbestos Products Liab. Litig. (No. VI)*, 771 F. Supp. 415, 422-23 (J.P.M.L. 1991) (finding relevant that “more asbestos personal injury or wrongful death actions are pending in [transferee] district than any other”); *In re Folding Carton Antitrust Litig.*, 415 F. Supp. 384, 386 (J.P.M.L. 1976) (holding most appropriate transferee forum where “fourteen of the 23 private actions before us are pending there”); *In re Corrugated Container Antitrust Litig.*, 441 F. Supp. 921, 924 (J.P.M.L. 1977) (holding appropriate transferee forum where “seventeen of the 37 actions before us are pending [in transferee district]”); *In re Oxycontin Antitrust Litig.*, 314 F. Supp. 2d 1388, 1390 (J.P.M.L. 2004); *In re Enron Corp. Sec., Derivative & ERISA Litig.*, 196 F. Supp. 2d 1375, 1376 (J.P.M.L. 2002).

In addition, the largest number of Plaintiffs (5 of 6) have filed cases in the District of Connecticut. This is an additional reason why transfer to the District of Connecticut is appropriate. *See In re Air Crash Disaster Near Saigon, South Vietnam, On April 4, 1975*, 404 F. Supp. 478, 480 (J.P.M.L. 1975) (cases transferred to the district involving “the claim of the most significant number of plaintiffs”). Moreover, the most law firms filed cases in Connecticut and support the transfer and consolidation to Connecticut (9 of 13).

Thus, transfer and consolidation in the District of Connecticut is most appropriate for the aforementioned reasons.



**B. The District of Connecticut Is The Venue Where A Major Defendant Is Located.**

A major Defendant in these Actions is located in Connecticut. Honeywell International's Consumer Products Group ("CPG") is located in Danbury, Connecticut. Headquartered in Connecticut, FRAM® is a unit of Honeywell's CPG, which manufactures and markets FRAM® oil, air, transmission and fuel filters. Honeywell's CPG is one of the largest manufacturers of Filters in the United States, and a key Defendant in the Actions. In addition, FRAM® is the leading brand of automotive filters in North America. Thus, a substantial portion of the documents and witnesses relevant to the Actions are located in Connecticut.

The Panel typically considers the nexus between the evidence and witnesses pertaining to the related actions and the location of the MDL proceeding. *See In re Parcel Tanker Shipping Servs. Antitrust Litigation*, 296 F. Supp. 2d 1370, 1371 (J.P.M.L. 2003) (favoring transfer to Connecticut because "one defendant is located there and documents and witnesses will likely be found there"); *In re Carbon Black*, 277 F. Supp. 2d 1380, 1381 (J.P.M.L. 2003) (consolidating eight actions in the district where one defendant had its principal place of business); *In re Reformulated Gasoline (RFG) Antitrust & Patent Litig.*, 370 F.Supp.2d 1357, 1358-59 (J.P.M.L. 2005) (holding appropriate transferee district where Defendant is located and documents and witnesses will likely be found there). Thus, transfer to the District of Connecticut is proper because a substantial portion of the important evidence and witnesses relating to the claims against defendants is located there.

**C. The District of Connecticut Has The Required Experience And Resources To Adjudicate Complex Antitrust Actions.**

In deciding where a consolidated action should be transferred, the Panel considers the docket of the potential forums. *In re Nifedipine Antitrust Litigation*, 266 F. Supp. 2d 1382, 1382-83 (J.P.M.L. 2003) (transferee court's docket is "well suited" to receive the consolidated

cases); *In re Pressure Sensitive Labelstock Antitrust Litigation*, 290 F. Supp. 2d 1374, 1376 (J.P.M.L. 2003) (transferee court “enjoys general docket conditions permitting the Panel to effect Section 1407 assignment to a court with the present resources to devote to the pretrial matters that this docket is likely to require”); *In re Parcel Tanker Shipping Servs. Antitrust Litigation*, 296 F. Supp. 2d 1370, 1371 (J.P.M.L. 2003) (transferee court “has a relatively favorable caseload for accepting this assignment”). When the potential transferee district’s docket is congested, it may be overwhelmed by additional complex litigation and therefore transfer to such a forum may result in judicial inefficiency and unfairness to the parties.

There are currently only seven MDL cases pending in the District of Connecticut, while there are 17 pending in the Northern District of Illinois. *See Exhibit B, Distribution of Pending MDL Dockets*, March 10, 2008. There are no MDL cases pending before Judge Arterton in the District of Connecticut, while Judge Gettleman in the Northern District of Illinois has one pending MDL action. *Id.* In addition, according to the most recent Federal Court Management Statistics, the District of Connecticut has fewer pending cases per judgeship than the Northern District of Illinois, and cases are disposed of faster from filing to trial in the District of Connecticut. *See Exhibit C.* Thus, the District of Connecticut is the more appropriate venue to handle the Actions. *See, e.g., In re Gator Corp. Software Trademark & Copyright Litig.*, 259 F. Supp. 2d 1378, 1380 (J.P.M.L. 2003) (transferring to a forum that “is not currently overtaxed with other multidistrict dockets”).

**D. The District of Connecticut Is A Well-Suited And Convenient Forum For The Actions.**

The Panel also considers the convenience of the parties and their counsel in choosing an appropriate transferee district. *See In re Publication Paper*, MDL Docket No. 1631, Transfer Order (dated Nov. 12, 2004) (“We also observe that this district [Connecticut] is a

geographically convenient location, given the location of the principal defendants and potential defendants and witnesses in the eastern part of the United States and in Europe.”); *In re Air Fare Litigation*, 322 F. Supp. 1013, 1015 (J.P.M.L. 1971) (choosing a particular transferee district because it was “more convenient for counsel, and thus less expensive for their clients”).

This factor also favors the consolidation of the Actions in the District of Connecticut. All of the Defendants are located in the United States. The District of Connecticut courthouse where Judge Arterton sits is located in New Haven, which is easily accessible from Bradley International Airport, a major international airport that offers daily flights to locations throughout the United States, located just 36 miles from New Haven, and Tweed New Haven Regional Airport, located just three miles from New Haven. There are also an abundance of hotels, taxis and car rental agencies both at the airport and in New Haven. Moreover, there is a well-developed support system for legal services and ample office space. *See In re Worldcom, Inc. Sec. & ERISA Litig.*, 226 F. Supp. 2d 1352, 1355 (J.P.M.L. 2002) (noting that “a litigation of this scope will benefit from centralization in a major metropolitan center that is well served by major airlines, provides ample hotel and office accommodations, and offers a well developed support system for legal services.”). The District of Connecticut is, therefore, a convenient location for transfer of the Actions.

**E. The Northern District of Illinois Is An Inappropriate Forum For The Actions.**

The Northern District of Illinois is an inappropriate forum for the Actions because:

(1) Only one out of the seven Actions, the latest one filed, is pending in the Northern District of Illinois, while all the other cases, including the first-filed case, are pending in the District of Connecticut;

(2) The Illinois action is a copycat action, while the Connecticut actions are based on an extensive investigation of counsel and a confidential informant, and have progressed the farthest;

(3) Only one plaintiff has filed an action in the Northern District of Illinois, and fewer firms filed cases and support transfer and consolidation there than the District of Connecticut

(4) None of the three major Defendants in this case—Purolator, Champion or Honeywell/FRAM—are located in the Northern District of Illinois;

(5) The Northern District of Illinois is more congested than the District of Connecticut, with over twice as many MDL cases pending, and with one MDL case pending before Judge Gettleman (versus none before Judge Arterton in the District of Connecticut);

(6) Cases are disposed of slower from filing to trial in the Northern District of Illinois; and

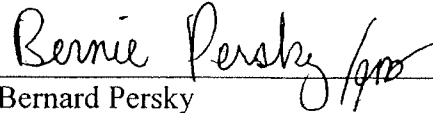
(7) The Northern District of Illinois is no more geographically convenient for the parties, witnesses and counsel than the District of Connecticut.

### **CONCLUSION**

For the reasons set forth herein, Moving Plaintiffs respectfully request that the Panel transfer and consolidate the Actions to the District of Connecticut.

Dated: April 15, 2008

Respectfully submitted,



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BEFORE THE JUDICIAL PANEL  
ON MULTIDISTRICT LITIGATION

---

IN RE FILTERS  
ANTITRUST LITIGATION

---

MDL DOCKET NO. \_\_\_\_\_

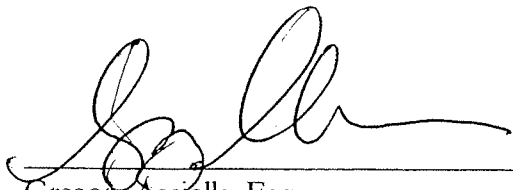
PROOF OF SERVICE

I, Gregory Ascioffa, hereby certify that a copy of the foregoing:

- MOTION OF PLAINTIFFS S&E QUICK LUBE DISTRIBUTORS, INC., FLASH SALES, INC., WILLIAM C. BRUENE d/b/a LONE STAR LUBE, T.D.S. COMPANY d/b/a TWI AUTO PARTS & SUPPLIES AND BARJAN, LLC FOR TRANSFER AND CONSOLIDATION OF RELATED ACTIONS TO THE DISTRICT OF CONNECTICUT
- MEMORANDUM OF LAW IN SUPPORT OF THE MOTION OF PLAINTIFFS S&E QUICK LUBE DISTRIBUTORS, INC., FLASH SALES, INC., WILLIAM C. BRUENE d/b/a LONE STAR LUBE, T.D.S. COMPANY d/b/a TWI AUTO PARTS & SUPPLIES AND BARJAN, LLC FOR TRANSFER AND CONSOLIDATION OF RELATED ACTIONS TO THE DISTRICT OF CONNECTICUT

and this Proof of Service was served on the parties on the attached Service List by First Class Mail  
on April 15, 2008.

Dated: April 15, 2008



Gregory Ascioffa, Esq.



Service List

<b>District Courts</b>	
United States District Court District of Connecticut Office of the Clerk 235 Church Street New Haven, CT 06510	United States District Court Northern District of Illinois (Eastern Division) Everett McKinley Dirksen United States Courthouse 219 South Dearborn Street Chicago, IL 60604
<b>Defendants</b>	
Margaret M. Zwisler Latham & Watkins LLP 555 Eleventh Street, NW Suite 1000 Washington DC 20004-1304 Telephone: 202-637-1092 Fax: 202-637-2201  <i>Counsel for Defendants Champion Laboratories Inc. and United Components Inc.</i>	Purolator Filters N.A. L.L.C. 3200 Natal Street Fayetteville, NC 28306
Honeywell International Inc. 101 Columbia Road Morristown, NJ 07962	Wix Filtration Products 1 Wix Way Gastonia, NC 28054
Cummins Filtration Inc. 500 Jackson Street Columbus, IN 47201-6258	Donaldson Company, Inc. 1400 W 94th Street Minneapolis, MN 55431
Baldwin Filters Inc. 4400 East Highway 30 Kearney, NE 68847	Bosch LLC 38000 Hills Tech Drive Farmington Hills, MI 48331
Mann + Hummel USA, Inc. 6400 S. Sprinkle Road Portage, MI 49002-9706	ArvinMeritor Inc. 2135 West Maple Road Troy, MI 48084
<b>Plaintiffs</b>	
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<p>Gary B. Friedman Tracey Kitzman FRIEDMAN LAW GROUP LLP 270 Lafayette Street, 14<sup>th</sup> Floor New York, NY 10012 Telephone: 212-680-5150 Fax: 646-277-1151</p> <p><i>Counsel for Plaintiff Flash Sales, Inc.</i></p>	<p>Corey D. Holzer HOLZER HOLZER &amp; FISTEL, LLC 1117 Perimeter Center West, Suite E-107 Atlanta, GA 30338 Telephone: 770-392-0090 Fax: 770-392-0029</p> <p><i>Counsel for Plaintiff Flash Sales, Inc.</i></p>
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<p>Stewart M. Weltman  WELTMAN LAW FIRM  77 W Wacker Drive, Suite 4800  Chicago, IL 60601-1664  Telephone: 312-606-8755</p>	<p>A. Hoyt Rowell III  Daniel O. Myers  T. Christopher Tuck  James L. Ward, Jr.  RICHARDSON, PATRICK, WESTBROOK &amp;  BRICKMAN LLC  P.O. Box 879  Mt. Pleasant, NC 29465</p>
<p><i>Counsel for Plaintiff Lovett Auto &amp; Tractor Parts, Inc.</i></p>	<p><i>Counsel for Plaintiff Lovett Auto &amp; Tractor Parts, Inc.</i></p>
<p>Stuart H. McCluer  MCCULLEY MCLUER PLLC  1109 Van Buren Avenue  Oxford, MS 38655</p> <p>R. Bryant McCulley  MCCULLEY MCLUER PLLC  One Independent Drive, Suite 3201  Jacksonville, FL 32202</p> <p><i>Counsel for Plaintiff Lovett Auto &amp; Tractor Parts, Inc.</i></p>	

# Exhibit A

## BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

IN RE FILTERS ANTITRUST LITIGATION

MDL DOCKET NO. \_\_\_\_\_

SCHEDULE OF ACTIONS

Case Captions	Court	Civil Action No.	Judge
<b>Plaintiff:</b> S&E Quick Lube Distributors, Inc. <b>Defendants:</b> Champion Laboratories, Inc., Purolator Filters N.A. L.L.C., Honeywell International Inc., Wix Filtration Prods., Cummins Filtration Inc., The Donaldson Co., Baldwin Filters Inc., Bosch U.S.A., Mann + Hummel U.S.A., Inc., ArvinMeritor, Inc., and United Components, Inc.	Connecticut	3:08-cv-00475	Janet Bond Arterton

Case Captions	Court	Civil Action No.	Judge
<b>Plaintiff:</b> Flash Sales, Inc. <b>Defendants:</b> Champion Laboratories, Inc., Purolator Filters N.A. L.L.C., Honeywell International Inc., Wix Filtration Prods., Cummins Filtration Inc., The Donaldson Co., Baldwin Filters Inc., Bosch U.S.A., Mann + Hummel U.S.A., Inc., ArvinMeritor, Inc., and United Components, Inc.	Connecticut	3:08-cv-00512	Christopher F. Droney
<b>Plaintiff:</b> William C. Bruene, d/b/a Lone Star Lube <b>Defendants:</b> Champion Laboratories, Inc., Purolator Filters N.A. L.L.C., Honeywell International Inc., Wix Filtration Prods., Cummins Filtration Inc., The Donaldson Co., Baldwin Filters Inc., Bosch U.S.A., Mann + Hummel U.S.A., Inc., ArvinMeritor, Inc., and United Components, Inc.	Connecticut	3:08-cv-00522	Stefan R. Underhill
<b>Plaintiff:</b> T.D.S. Company d/b/a TWI Auto Parts & Supplies <b>Defendants:</b> Champion Laboratories, Inc., Purolator Filters N.A. L.L.C., Honeywell International Inc., Wix Filtration Prods., Cummins Filtration Inc., The Donaldson Co., Baldwin Filters Inc., Bosch U.S.A., Mann + Hummel U.S.A., Inc., ArvinMeritor, Inc., and United Components, Inc.	Connecticut	3:08-cv-00528	Mark R. Kravitz
<b>Plaintiff:</b> Barjan, LLC <b>Defendants:</b> Champion Laboratories, Inc., Purolator Filters N.A. L.L.C., Honeywell International Inc., Wix Filtration Prods., Cummins Filtration Inc., The Donaldson Co., Baldwin Filters Inc., Bosch U.S.A., Mann + Hummel U.S.A., Inc., ArvinMeritor, Inc., and United Components, Inc.	Connecticut	3:08-cv-00534	Janet Bond Arterton

Case Captions	Court	Civil Action No.	Judge
<b>Plaintiff:</b> Lovett Auto & Tractor Parts, Inc. <b>Defendants:</b> Champion Laboratories, Inc., Purolator Filters N.A. L.L.C., Honeywell International Inc., Wix Filtration Prods., Cummins Filtration Inc., The Donaldson Co., Baldwin Filters Inc., Bosch U.S.A., Mann + Hummel U.S.A., Inc., and ArvinMeritor, Inc.	N.D. Illinois (Chicago)	1:08-cv-02046	Robert W. Gettleman

# Exhibit B



**DISTRIBUTION OF PENDING MDL DOCKETS**

(AS OF MARCH 10, 2008)

District	JUDGE	LITIGATION	Actions Pending	Total Number of Actions
ARE	D.J. William R. Wilson, Jr.	MDL-1507 IN RE: Prempro Products Liability Litigation	3,741	4,569
ARW	D.J. Harry F. Barnes	MDL-1832 IN RE: Pilgrim's Pride Fair Labor Standards Act Litigation	16	16
AZ	D.J. Mary H. Murguia Sr.J. Paul G. Rosenblatt	MDL-1910 IN RE: Phoenix Licensing, L.L.C., Patent Litigation	7	7
		MDL-1541 IN RE: Allstate Insurance Co. Fair Labor Standards Act Litigation	4	5
CAC	D.J. David O. Carter	MDL-1807 IN RE: Wachovia Securities, LLC, Wage and Hour Litigation	17	20
	D.J. Dale S. Fischer	MDL-1822 IN RE: Bluetooth Headset Products Liability Litigation	27	27
	D.J. Dale S. Fischer	MDL-1897 IN RE: Mattel, Inc., Toy Lead Paint Products Liability Litigation	20	20
	D.J. R. Gary Klausner	MDL-1816 IN RE: Katz Interactive Call Processing Patent Litigation	53	54
	D.J. R. Gary Klausner	MDL-1864 IN RE: Charlotte Russe, Inc., Fair and Accurate Credit Transactions Act (FACTA) Litigation	3	3
	D.J. S. James Otero	MDL-1891 IN RE: Korean Air Lines Co., Ltd., Antitrust Litigation	70	70
	Sr.J. Mariana R. Pfaelzer	MDL-1574 IN RE: Paxil Products Liability Litigation	6	149
	D.J. Manuel L. Real	MDL-1737 IN RE: American Honda Motor Co., Inc., Oil Filter Products Liability Litigation	5	5
	D.J. Christina A. Snyder	MDL-1671 IN RE: Reformulated Gasoline (RFG) Antitrust & Patent Litigation	9	12
	D.J. Christina A. Snyder	MDL-1825 IN RE: Midland National Life Insurance Co. Annuity Sales Practices Litigation	2	2
	C.J. Alicemarie H. Stotler	MDL-1803 IN RE: Banc of America Investment Services, Inc., Overtime Pay Litigation	5	5
	D.J. Stephen V. Wilson	MDL-1745 IN RE: Live Concert Antitrust Litigation	22	22

District	JUDGE	LITIGATION	Actions	Total
CAN	D.J. William H. Alsup	MDL-1826 IN RE: Graphics Processing Units Antitrust Litigation	51	52
	D.J. Sandra Brown Armstrong	MDL-1781 IN RE: Cintas Corp. Overtime Pay Arbitration Litigation	71	71
	D.J. Sandra Brown Armstrong	MDL-1809 IN RE: Terminix Employment Practices Litigation	2	2
	D.J. Charles R. Breyer	MDL-1699 IN RE: Bextra and Celebrex Marketing, Sales Practices and Products Liability Litigation	1,753	2,017
	D.J. Charles R. Breyer	MDL-1793 IN RE: International Air Transportation Surcharge Antitrust Litigation	101	102
	D.J. Charles R. Breyer	MDL-1913 IN RE: Transpacific Passenger Air Transportation Antitrust Litigation	16	16
	Sr.J. Samuel Conti	MDL-1917 IN RE: Cathode Ray Tube (CRT) Antitrust Litigation	15	15
	D.J. Phyllis J. Hamilton	MDL-1486 IN RE: Dynamic Random Access Memory (DRAM) Antitrust Litigation	26	45
	D.J. Susan Y. Illston	MDL-1827 IN RE: TFT-LCD (Flat Panel) Antitrust Litigation	135	135
	D.J. Martin J. Jenkins	MDL-1648 IN RE: Rubber Chemicals Antitrust Litigation	10	14
	D.J. Marilyn Hall Patel	MDL-1770 IN RE: Wells Fargo Home Mortgage Overtime Pay Litigation	4	4
	D.J. Marilyn Hall Patel	MDL-1841 IN RE: Wells Fargo Loan Processor Overtime Pay Litigation	2	2
	C.J. Vaughn R. Walker	MDL-1606 IN RE: Deep Vein Thrombosis Litigation	5	84
	C.J. Vaughn R. Walker	MDL-1791 IN RE: National Security Agency Telecommunications Records Litigation	48	49
	D.J. James Ware	MDL-1665 IN RE: Acacia Media Technologies Corp. Patent Litigation	22	23
	D.J. Claudia Wilken	MDL-1819 IN RE: Static Random Access Memory (SRAM) Antitrust Litigation	81	82
	D.J. Ronald M. Whyte	MDL-1423 IN RE: Cygnus Telecommunications Technology, LLC, Patent Litigation	3	30
	D.J. Ronald M. Whyte	MDL-1754 IN RE: Apple iPod nano Products Liability Litigation	5	8
CAS	D.J. Roger T. Benitez	MDL-1806 IN RE: Morgan Stanley & Co., Inc., Overtime Pay Litigation (No. II)	11	11
	D.J. Roger T. Benitez	MDL-1889 IN RE: Peregrine Systems, Inc., Securities Litigation	35	35
	Sr.J. Napoleon A. Jones, Jr.	MDL-1296 IN RE: Alliance Equipment Lease Program Securities Litigation	1	27
	D.J. Jeffrey T. Miller	MDL-1751 IN RE: Jamster Marketing Litigation	5	5
CO	D.J. Robert E. Blackburn	MDL-1788 IN RE: Qwest Communications International, Inc., Securities & "ERISA" Litigation (No. II)	8	30
	D.J. Wiley Y. Daniel	MDL-1743 IN RE: American Family Mutual Insurance Co. Overtime Pay Litigation	2	2
CT	Sr.J. Alfred V. Covello	MDL-1568 IN RE: Parcel Tanker Shipping Services Antitrust Litigation	2	18
	D.J. Christopher F. Droney	MDL-1894 IN RE: U.S. Foodservice, Inc., Pricing Litigation	3	3
	D.J. Alvin W. Thompson	MDL-1463 IN RE: Xerox Corp. Securities Litigation	22	22
	D.J. Stefan R. Underhill	MDL-1542 IN RE: Ethylene Propylene Diene Monomer (EPDM) Antitrust Litigation	15	15
	D.J. Stefan R. Underhill	MDL-1631 IN RE: Publication Paper Antitrust Litigation	28	31
	D.J. Stefan R. Underhill	MDL-1642 IN RE: Polychloroprene Rubber (CR) Antitrust Litigation	9	9
	D.J. Stefan R. Underhill	MDL-1649 IN RE: Helicopter Crash Near Wendle Creek, British Columbia, on August 8, 2002	4	4

District	JUDGE	LITIGATION	Actions Filed	Total Actions
DC	D.J. John D. Bates	MDL-1772 IN RE: Series 7 Broker Qualification Exam Scoring Litigation	19	21
	D.J. Rosemary M. Collyer	MDL-1880 IN RE: Papst Licensing Digital Camera Patent Litigation	6	6
	D.J. Paul L. Friedman	MDL-1869 IN RE: Rail Freight Fuel Surcharge Antitrust Litigation	16	16
	C.J. Thomas F. Hogan	MDL-1285 IN RE: Vitamin Antitrust Litigation	3	84
	D.J. Ellen Segal Huvelle	MDL-1792 IN RE: InPhonic, Inc., Wireless Phone Rebate Litigation	15	15
	D.J. Royce C. Lamberth	MDL-1307 IN RE: Columbia/HCA Healthcare Corp. Qui Tam Litigation (No. II)	2	30
	D.J. Richard J. Leon	MDL-1515 IN RE: Nifedipine Antitrust Litigation	6	10
	D.J. Richard J. Leon	MDL-1668 IN RE: Federal National Mortgage Association Securities, Derivative & "ERISA" Litigation	7	18
	D.J. James Robertson	MDL-1796 IN RE: Department of Veterans Affairs (VA) Data Theft Litigation	3	3
	D.J. Ricardo M. Urbina	MDL-1798 IN RE: Long-Distance Telephone Service Federal Excise Tax Refund Litigation	4	4
DE	D.J. Joseph J. Farnan, Jr.	MDL-1717 IN RE: Intel Corp. Microprocessor Antitrust Litigation	76	77
	C.J. Gregory M. Sleet	MDL-1660 IN RE: PharmaStem Therapeutics, Inc., Patent Litigation	6	6
	C.J. Gregory M. Sleet	MDL-1848 IN RE: Rembrandt Technologies, LP, Patent Litigation	15	15
	C.J. Gregory M. Sleet	MDL-1866 IN RE: Brimonidine Patent Litigation	2	2
FLM	D.J. Henry Lee Adams, Jr.	MDL-1698 IN RE: American General Life & Accident Insurance Co. Retiree Benefits "ERISA" Litigation	80	80
	D.J. Anne C. Conway	MDL-1769 IN RE: Seroquel Products Liability Litigation	5,645	7,292
	D.J. Timothy J. Corrigan	MDL-1828 IN RE: Imagitas, Inc., Drivers' Privacy Protection Act Litigation	13	13
	Sr.J. Paul A. Magnuson (MN)	MDL-1824 IN RE: Tri-State Water Rights Litigation	6	6
	D.J. James S. Moody, Jr.	MDL-1626 IN RE: Accutane Products Liability Litigation	17	32
FLS	D.J. Donald L. Graham	MDL-1888 IN RE: Marine Hose Antitrust Litigation (No. II)	8	8
	D.J. Kenneth A. Marra	MDL-1916 IN RE: Chiquita Brands International, Inc., Alien Tort Statute and Shareholders Derivative Litigation	6	6
	C.J. Federico A. Moreno	MDL-1334 IN RE: Managed Care Litigation	9	124
GAM	D.J. Clay D. Land	MDL-1854 IN RE: Tyson Foods, Inc., Fair Labor Standards Act Litigation	25	25
GAN	D.J. William S. Duffey, Jr.	MDL-1895 IN RE: LTL Shipping Services Antitrust Litigation	50	50
	D.J. Thomas W. Thrash, Jr.	MDL-1804 IN RE: Stand 'n Seal Products Liability Litigation	35	36
	D.J. Thomas W. Thrash, Jr.	MDL-1845 IN RE: ConAgra Peanut Butter Products Liability Litigation	147	147
IAS	Sr.J. Ronald E. Longstaff	MDL-1733 IN RE: Teflon Products Liability Litigation	23	23



District	JUDGE	LITIGATION	Actions	Total
ILN	D.J. Wayne R. Andersen	MDL-1876 IN RE: Long Beach Mortgage Company Truth in Lending Act 1-4 Family Rider Litigation	3	3
	Sr.J. Marvin E. Aspen	MDL-1425 IN RE: Aimster Copyright Litigation	11	11
	Sr.J. Marvin E. Aspen	MDL-1715 IN RE: Ameriquist Mortgage Co. Mortgage Lending Practices Litigation	447	457
	D.J. Elaine E. Bucklo	MDL-1784 IN RE: McDonald's French Fries Litigation	13	14
	D.J. David H. Coar	MDL-1536 IN RE: Sulfuric Acid Antitrust Litigation	7	7
	D.J. David H. Coar	MDL-1783 IN RE: JP Morgan Chase & Co. Securities Litigation	3	3
	D.J. Robert W. Gettleman	MDL-1350 IN RE: Trans Union Corp. Privacy Litigation	14	15
	Sr.J. John F. Grady	MDL-986 IN RE: "Factor VIII or IX Concentrate Blood Products" Products Liability Litigation	115	367
	Sr.J. John F. Grady	MDL-1521 IN RE: Wireless Telephone 911 Calls Litigation	10	10
	Sr.J. John F. Grady	MDL-1703 IN RE: Sears, Roebuck & Co. Tools Marketing and Sales Practices Litigation	4	7
	C.J. James F. Holderman, Jr.	MDL-1818 IN RE: Citifinancial Services Incorporated Prescreened Offer Litigation	10	10
	Sr.J. Harry D. Leinenweber	MDL-1893 IN RE: RC2 Corp. Toy Lead Paint Products Liability Litigation	18	18
	D.J. Charles R. Norgle, Sr.	MDL-1491 IN RE: African-American Slave Descendants Litigation	2	10
	D.J. Charles R. Norgle, Sr.	MDL-1604 IN RE: Ocwen Federal Bank FSB Mortgage Servicing Litigation	75	90
	D.J. Amy J. St. Eve	MDL-1778 IN RE: Ocean Financial Corp. Prescreening Litigation	5	6
	D.J. James B. Zagel	MDL-899 IN RE: Mortgage Escrow Deposit Litigation	1	75
	D.J. James B. Zagel	MDL-1392 IN RE: General Motors Corporation Vehicle Paint Litigation (No. III)	2	3
ILS	D.J. G. Patrick Murphy	MDL-1562 IN RE: General Motors Corp. Dex-Cool Products Liability Litigation	6	12
	D.J. G. Patrick Murphy	MDL-1748 IN RE: Profiler Products Liability Litigation	4	4
INN	Sr.J. Rudy J. Lozano	MDL-1767 IN RE: H&R Block Mortgage Corp. Prescreening Litigation	3	3
	C.J. Robert L. Miller, Jr.	MDL-1700 IN RE: FedEx Ground Package System, Inc., Employment Practices Litigation (No. II)	57	63
INS	D.J. Sarah E. Barker	MDL-1373 IN RE: Bridgestone/Firestone, Inc., Tires Products Liability Litigation	15	824
	C.J. David F. Hamilton	MDL-1313 IN RE: AT&T Corp. Fiber Optic Cable Installation Litigation	43	43
	D.J. Larry J. McKinney	MDL-1727 IN RE: COBRA Tax Shelters Litigation	3	4
KS	D.J. John W. Lungstrum	MDL-1468 IN RE: Universal Service Fund Telephone Billing Practices Litigation	63	68
	D.J. John W. Lungstrum	MDL-1616 IN RE: Urethane Antitrust Litigation	30	30
	C.J. Kathryn H. Vratil	MDL-1721 IN RE: Cessna 208 Series Aircraft Products Liability Litigation	8	9
	C.J. Kathryn H. Vratil	MDL-1840 IN RE: Motor Fuel Temperature Sales Practices Litigation	50	50
	C.J. Kathryn H. Vratil	MDL-1853 IN RE: The TJX Companies, Inc., Fair and Accurate Credit Transactions Act (FACTA) Litigation	9	9
KYE	Sr.J. Joseph M. Hood	MDL-1877 IN RE: ClassicStar Mare Lease Litigation	18	18

District	JUDGE	LITIGATION	Actions Filed	Total Actions
LAE	D.J. Kurt D. Engelhardt D.J. Eldon E. Fallon D.J. Eldon E. Fallon D.J. Martin L.C. Feldman D.J. Sarah S. Vance	MDL-1873 IN RE: FEMA Trailer Formaldehyde Products Liability Litigation MDL-1355 IN RE: Propulsid Products Liability Litigation MDL-1657 IN RE: Vioxx Marketing, Sales Practices and Products Liability Litigation MDL-1390 IN RE: Life Insurance Co. of Georgia Industrial Life Insurance Litigation MDL-1643 IN RE: Educational Testing Service PLT 7-12 Test Scoring Litigation	15 297 9,284 52 2	15 474 9,882 133 31
MA	D.J. Nancy Gertner Sr.J. Edward F. Harrington D.J. Patti B. Saris D.J. Patti B. Saris D.J. Richard G. Stearns D.J. Joseph L. Tauro D.J. Joseph L. Tauro D.J. Joseph L. Tauro D.J. Douglas P. Woodlock D.J. Douglas P. Woodlock D.J. William G. Young D.J. Rya W. Zobel D.J. Rya W. Zobel	MDL-1354 IN RE: Citigroup, Inc., Capital Accumulation Plan Litigation MDL-1143 IN RE: Mutual Life Insurance Company of New York Premium Litigation MDL-1456 IN RE: Pharmaceutical Industry Average Wholesale Price Litigation MDL-1629 IN RE: Neurontin Marketing, Sales Practices and Products Liability Litigation MDL-1861 IN RE: Wellnx Marketing and Sales Practices Litigation MDL-1790 IN RE: Volkswagen and Audi Warranty Extension Litigation MDL-1820 IN RE: Webloyalty.com, Inc., Marketing and Sales Practices Litigation MDL-1870 IN RE: Greenwood Credit Union Prescreening Litigation MDL-1543 IN RE: Carbon Black Antitrust Litigation MDL-1704 IN RE: M3Power Razor System Marketing & Sales Practices Litigation MDL-1838 IN RE: The TJX Companies, Inc., Customer Data Security Breach Litigation MDL-1380 IN RE: Xcelera.com Inc. Securities Litigation MDL-1461 IN RE: Shell Oil Products Co. Dealer Franchise Litigation	8 2 3 10 16 2 2 3 1 1 28 1 1	18 23 119 231 16 8 5 3 16 26 28 20 3
MD	D.J. Catherine C. Blake C.J. Benson Everett Legg D.J. J. Frederick Motz D.J. J. Frederick Motz, D.J. Andre M. Davis and D.J. Catherine C. Blake D.J. Roger W. Titus	MDL-1539 IN RE: Royal Ahold N.V. Securities & "ERISA" Litigation MDL-1387 IN RE: ProteGen Sling and Vesica System Products Liability Litigation MDL-1332 IN RE: Microsoft Corp. Windows Operating Systems Antitrust Litigation MDL-1586 IN RE: Mutual Funds Investment Litigation  MDL-1911 IN RE: Michelin North America, Inc., PAX System Marketing and Sales Practices Litigation	37 4 2 423  4	37 584 117 437  4
ME	D.J. D. Brock Hornby	MDL-1532 IN RE: New Motor Vehicles Canadian Export Antitrust Litigation	27	31
MIE	D.J. Sean F. Cox C.J. Bernard A. Friedman  D.J. Gerald E. Rosen D.J. Gerald E. Rosen	MDL-1867 IN RE: OnStar Contract Litigation MDL-1718 IN RE: Ford Motor Co. Speed Control Deactivation Switch Products Liability Litigation MDL-1725 IN RE: Delphi Corp. Securities, Derivative & "ERISA" Litigation MDL-1749 IN RE: General Motors Corp. Securities & Derivative Litigation	22 78  22 5	23 81  25 5
MIW	C.J. Robert Holmes Bell	MDL-1846 IN RE: Trade Partners, Inc., Investors Litigation	5	5

District	JUDGE	LITIGATION	Actions	Total
MN	D.J. Michael J. Davis	MDL-1431 IN RE: Baycol Products Liability Litigation	330	9,090
	Sr.J. David S. Doty	MDL-1892 IN RE: KFC Corp. Fair Labor Standards Act Litigation	27	28
	D.J. Donovan W. Frank	MDL-1708 IN RE: Guidant Corp. Implantable Defibrillators Products Liability Litigation	2,056	2,086
	Sr.J. Richard H. Kyle	MDL-1905 IN RE: Medtronic, Inc., Sprint Fidelis Leads Products Liability Litigation	31	31
	Sr.J. Paul A. Magnuson	MDL-1724 IN RE: Viagra Products Liability Litigation	134	140
	C.J. James M. Rosenbaum	MDL-1726 IN RE: Medtronic, Inc., Implantable Defibrillators Products Liability Litigation	1,115	1,191
	C.J. James M. Rosenbaum	MDL-1836 IN RE: Mirapex Products Liability Litigation	275	275
	D.J. John R. Tunheim	MDL-1396 IN RE: St. Jude Medical, Inc., Silzone Heart Valves Products Liability Litigation	20	57
MOE	D.J. Jean C. Hamilton	MDL-1702 IN RE: Air Crash Near Kirksville, Missouri, on October 19, 2004	4	12
	Sr.J. Stephen N. Limbaugh	MDL-1672 IN RE: Express Scripts, Inc., Pharmacy Benefits Management Litigation	13	20
	D.J. Catherine D. Perry	MDL-1811 IN RE: Genetically Modified Rice Litigation	222	222
	D.J. Rodney W. Sippel	MDL-1620 IN RE: Metoprolol Succinate Patent Litigation	8	8
	D.J. Rodney W. Sippel	MDL-1736 IN RE: Celexa and Lexapro Products Liability Litigation	43	43
	D.J. E. Richard Webber	MDL-1907 IN RE: Aurora Dairy Corp. Organic Milk Marketing and Sales Practices Litigation	4	4
MOW	D.J. Richard E. Dorr	MDL-1786 IN RE: H&R Block, Inc., Express IRA Marketing Litigation	20	21
MSS	D.J. Keith Starrett	MDL-1872 IN RE: Wayne Farms LLC Fair Labor Standards Act Litigation	12	12
NCM	C.J. James A. Beaty, Jr.	MDL-1622 IN RE: Cotton Yarn Antitrust Litigation	9	9
NCW	C.J. Richard L. Voorhees	MDL-1516 IN RE: Polyester Staple Antitrust Litigation	14	36
NE	D.J. Laurie Smith Camp	MDL-1920 IN RE: Saturn L-Series Timing Chain Products Liability Litigation	3	3
NH	D.J. Paul J. Barbadoro	MDL-1335 IN RE: Tyco International, Ltd., Securities, Derivative and "ERISA" Litigation	12	104



District	JUDGE	LITIGATION	Actions	Total
NJ	Sr.J. Harold A. Ackerman	MDL-1687 IN RE: Ford Motor Co. E-350 Van Products Liability Litigation (No. II)	5	5
	C.J. Garrett E. Brown, Jr.	MDL-1471 IN RE: Compensation of Managerial, Professional and Technical Employees Antitrust Litigation	4	4
	C.J. Garrett E. Brown, Jr.	MDL-1663 IN RE: Insurance Brokerage Antitrust Litigation	45	47
	D.J. Stanley R. Chesler	MDL-1658 IN RE: Merck & Co., Inc., Securities, Derivative & "ERISA" Litigation	1	35
	D.J. Stanley R. Chesler	MDL-1777 IN RE: SFBC International, Inc., Securities & Derivative Litigation	1	14
	D.J. Stanley R. Chesler	MDL-1857 IN RE: Schering Marketing and Sales Practices Litigation (No. II)	6	6
	D.J. Mary L. Cooper	MDL-1851 IN RE: Desloratadine Patent Litigation	4	4
	Sr.J. Dickinson R. Debevoise	MDL-1337 IN RE: Holocaust Era German Industry, Bank & Insurance Litigation	2	59
	Sr.J. Dickinson R. Debevoise	MDL-1914 IN RE: Mercedes-Benz Tele Aid Contract Litigation	4	4
	D.J. Joseph A. Greenaway, Jr.	MDL-1419 IN RE: K-Dur Antitrust Litigation	1	44
	D.J. Noel L. Hillman	MDL-1850 IN RE: Pet Food Products Liability Litigation	116	116
	D.J. Faith S. Hochberg	MDL-1384 IN RE: Gapabentin Patent Litigation	13	17
	D.J. Faith S. Hochberg	MDL-1479 IN RE: Neurontin Antitrust Litigation	22	22
	Sr.J. Joseph E. Irenas	MDL-1881 IN RE: Boscov's Department Store, LLC, Fair and Accurate Credit Transactions Act (FACTA) Litigation	3	3
	D.J. Jose L. Linares	MDL-1730 IN RE: Hypodermic Products Antitrust Litigation	9	10
	D.J. William J. Martini	MDL-1763 IN RE: Human Tissue Products Liability Litigation	208	216
	D.J. Jerome B. Simandle	MDL-1514 IN RE: Electrical Carbon Products Antitrust Litigation	1	25
	Sr.J. William H. Walls	MDL-1292 IN RE: Cendant Corporation Securities Litigation	3	18
	D.J. Susan D. Wigenton	MDL-1550 IN RE: IDT Corp. Calling Card Terms Litigation	4	5
	D.J. Freda L. Wolfson	MDL-1799 IN RE: Vonage Initial Public Offering (IPO) Securities Litigation	1	16
	D.J. Freda L. Wolfson	MDL-1862 IN RE: Vonage Marketing and Sales Practices Litigation	5	5
NV	D.J. Kent J. Dawson	MDL-1619 IN RE: Musha Cay Litigation	3	3
	Sr.J. Lloyd D. George	MDL-1357 IN RE: NOS Communications, Inc., Billing Practices Litigation	7	8
	D.J. Robert Clive Jones	MDL-1878 IN RE: Internal Revenue Service §1031 Tax Deferred Exchange Litigation	5	5
	D.J. Philip M. Pro	MDL-1566 IN RE: Western States Wholesale Natural Gas Antitrust Litigation	6	33
	D.J. Philip M. Pro	MDL-1735 IN RE: Wal-Mart Wage and Hour Employment Practices Litigation	33	35

District	JUDGE	LITIGATION	Actions Filed	Total Actions
NYE	D.J. Brian M. Cogan	MDL-1844 IN RE: Air Crash Near Peixoto de Azeveda, Brazil, on September 29, 2006	68	68
	C.J. Raymond J. Dearie	MDL-1613 IN RE: Nigeria Charter Flights Contract Litigation	10	14
	D.J. John Gleeson	MDL-1575 IN RE: Visa/MasterCard Antitrust Litigation	5	8
	D.J. John Gleeson	MDL-1720 IN RE: Payment Card Interchange Fee and Merchant Discount Antitrust Litigation	51	51
	D.J. John Gleeson	MDL-1775 IN RE: Air Cargo Shipping Services Antitrust Litigation	94	95
	Sr.J. Thomas C. Platt, Jr.	MDL-799 IN RE: Air Disaster at Lockerbie, Scotland, on December 21, 1988	37	297
	Sr.J. Thomas C. Platt, Jr.	MDL-1898 IN RE: American Home Mortgage Securities Litigation	19	19
	Sr.J. David G. Trager	MDL-1738 IN RE: Vitamin C Antitrust Litigation	10	10
	Sr.J. Jack B. Weinstein	MDL-381 IN RE: "Agent Orange" Products Liability Litigation	6	629
	Sr.J. Jack B. Weinstein	MDL-1596 IN RE: Zyprexa Products Liability Litigation	1,866	1,869
NYS	Sr.J. Harold Baer, Jr.	MDL-1661 IN RE: Rivastigmine Patent Litigation	4	5
	D.J. Deborah A. Batts	MDL-1714 IN RE: Rhodia S.A. Securities Litigation	4	4
	D.J. Richard A. Berman	MDL-1628 IN RE: Pineapple Antitrust Litigation	6	10
	D.J. Charles L. Brieant	MDL-1508 IN RE: Medco Health Solutions, Inc., Pharmacy Benefits Management Litigation	5	18
	D.J. Charles L. Brieant	MDL-1903 IN RE: PepsiCo, Inc., Bottled Water Marketing and Sales Practices Litigation	4	4
	D.J. Denise Cote	MDL-1487 IN RE: WorldCom, Inc., Securities & "ERISA" Litigation	3	177
	D.J. Paul A. Crotty	MDL-1794 IN RE: Novartis Wage and Hour Litigation	2	2
	D.J. George B. Daniels	MDL-1379 IN RE: Literary Works in Electronic Databases Copyright Litigation	3	5
	D.J. George B. Daniels	MDL-1570 IN RE: Terrorist Attacks on September 11, 2001	24	25
	Sr.J. Kevin Thomas Duffy	MDL-1443 IN RE: America Online, Inc., Community Leaders Litigation	3	3
	Sr.J. Thomas P. Griesa	MDL-1336 IN RE: Abercrombie & Fitch Co. Securities Litigation	20	20
	Sr.J. Thomas P. Griesa	MDL-1644 IN RE: Elevator and Escalator Antitrust Litigation	4	25
	D.J. Richard J. Holwell	MDL-1771 IN RE: "A Million Little Pieces" Litigation	11	11
	D.J. Barbara S. Jones	MDL-1291 IN RE: Omeprazole Patent Litigation	5	22
	D.J. Lewis A. Kaplan	MDL-1348 IN RE: Rezulin Products Liability Litigation	751	1,868
	D.J. Lewis A. Kaplan	MDL-1653 IN RE: Parmalat Securities Litigation	17	17
	Sr.J. John F. Keenan	MDL-1484 IN RE: Merrill Lynch & Co., Inc., Research Reports Securities Litigation	21	176
	Sr.J. John F. Keenan	MDL-1789 IN RE: Fosamax Products Liability Litigation	412	413
	Sr.J. Shirley Wohl Kram	MDL-1500 IN RE: AOL Time Warner Inc. Securities & "ERISA" Litigation	35	72
	Sr.J. Shirley Wohl Kram	MDL-1739 IN RE: Grand Theft Auto Video Game Consumer Litigation (No. II)	8	8
	Sr.J. Shirley Wohl Kram	MDL-1744 IN RE: Marsh & McLennan Companies, Inc., Securities Litigation	7	10
	D.J. Gerard E. Lynch	MDL-1472 IN RE: Global Crossing Ltd. Securities and "ERISA" Litigation	2	89
	D.J. Gerard E. Lynch	MDL-1902 IN RE: Refco Inc. Securities Litigation	13	13
	Sr.J. Lawrence M. McKenna	MDL-1529 IN RE: Adelphia Communications Corp. Securities & Derivative Litigation (No. II)	72	72



District	JUDGE	LITIGATION	Actions	Total
NYS (cont.)	D.J. Colleen McMahon	MDL-1695 IN RE: Veeco Instruments Inc. Securities Litigation	13	13
	D.J. Colleen McMahon	MDL-1755 IN RE: Bayou Hedge Funds Investment Litigation	9	10
	Sr.J. Richard Owen	MDL-1688 IN RE: Pfizer Inc. Securities, Derivative & "ERISA" Litigation	30	30
	Sr.J. Richard Owen	MDL-1706 IN RE: Doral Financial Corp. Securities Litigation	24	25
	D.J. William H. Pauley III	MDL-1409 IN RE: Currency Conversion Fee Antitrust Litigation	5	35
	D.J. Loretta A. Preska	MDL-1659 IN RE: Nortel Networks Corp. Securities Litigation	2	30
	D.J. Loretta A. Preska	MDL-1780 IN RE: Digital Music Antitrust Litigation	30	31
	D.J. Jed S. Rakoff	MDL-1598 IN RE: Ephedra Products Liability Litigation	519	861
	D.J. Shira Ann Scheindlin	MDL-1358 IN RE: Methyl Tertiary Butyl Ether ("MTBE") Products Liability Litigation	145	167
	D.J. Shira Ann Scheindlin	MDL-1428 IN RE: Ski Train Fire in Kaprun, Austria, on November 11, 2000	8	27
	D.J. Shira Ann Scheindlin	MDL-1554 IN RE: Initial Public Offering (IPO) Securities Litigation	393	511
	Sr.J. John E. Sprizzo	MDL-1153 IN RE: Bennett Funding Group, Inc., Securities Litigation (No. II)	29	66
	Sr.J. John E. Sprizzo	MDL-1499 IN RE: South African Apartheid Litigation	13	14
	Sr.J. John E. Sprizzo	MDL-1584 IN RE: Federal Home Loan Mortgage Corp. Securities & Derivative Litigation (No. II)	1	8
	D.J. Sidney H. Stein	MDL-1603 IN RE: OxyContin Antitrust Litigation	59	63
	Sr.J. Robert W. Sweet and Sr.J. John F. Keenan*	MDL-1448 IN RE: Air Crash at Belle Harbor, New York, on November 12, 2001	52	376
		* Judge Keenan is assigned to actions in which Judge Sweet is recused.		
OHN	D.J. Peter C. Economus	MDL-1561 IN RE: Travel Agent Commission Antitrust Litigation	1	3
	Sr.J. David A. Katz	MDL-1742 IN RE: Ortho Evra Products Liability Litigation	1,040	1,179
	D.J. Donald C. Nugent	MDL-1488 IN RE: Ford Motor Co. Panther Platform/Fuel Tank Design Products Liability Litigation	3	31
	D.J. Kathleen McDonald O'Malley	MDL-1401 IN RE: Sulzer Orthopedics Inc. Hip Prosthesis and Knee Prosthesis Products Liability Litigation	3	434
	D.J. Kathleen McDonald O'Malley	MDL-1490 IN RE: Commercial Money Center, Inc., Equipment Lease Litigation	31	38
	D.J. Kathleen McDonald O'Malley D.J. Dan A. Polster	MDL-1535 IN RE: Welding Fume Products Liability Litigation MDL-1909 IN RE: Gadolinium Contrast Dyes Products Liability Litigation	3,299 25	11,569 25
OHS	D.J. Gregory L. Frost	MDL-1638 IN RE: Foundry Resins Antitrust Litigation	1	20
	Sr.J. James L. Graham	MDL-1565 IN RE: National Century Financial Enterprises, Inc., Investment Litigation	21	22
	Sr.J. James L. Graham	MDL-1829 IN RE: Vision Service Plan Tax Litigation	5	5
OKW	D.J. Stephen P. Friot	MDL-1564 IN RE: Farmers Insurance Co., Inc., FCRA Litigation	7	12
OR	Sr.J. Robert E. Jones	MDL-1439 IN RE: Farmers Insurance Exchange Claims Representatives' Overtime Pay Litigation	4	13

District	JUDGE	LITIGATION	Actions	Total
PAE	C.J. Harvey Bartle III	MDL-1203 IN RE: Diet Drugs (Phentermine/Fenfluramine/Dexfenfluramine) Products Liability Litigation	983	20,156
	D.J. Ronald L. Buckwalter	MDL-1014 IN RE: Orthopedic Bone Screw Products Liability Litigation	1	3,085
	D.J. Ronald L. Buckwalter	MDL-1741 IN RE: Isolagen, Inc., Securities & Derivative Litigation	5	5
	D.J. Stewart Dalzell	MDL-1682 IN RE: Hydrogen Peroxide Antitrust Litigation	2	34
	D.J. Legrome D. Davis	MDL-1684 IN RE: Plastics Additives Antitrust Litigation (No. II)	8	10
	Sr.J. Jan E. DuBois	MDL-1261 IN RE: Linerboard Antitrust Litigation	2	20
	Sr.J. John P. Fullam	MDL-1782 IN RE: Pharmacy Benefit Managers Antitrust Litigation	6	6
	Sr.J. James T. Giles	MDL-875 IN RE: Asbestos Products Liability Litigation (No. VI)	34,383	112,229
	Sr.J. Bruce W. Kauffman	MDL-969 IN RE: Unisys Corp. Retiree Medical Benefit "ERISA" Litigation	8	14
	D.J. Mary A. McLaughlin	MDL-1712 IN RE: American Investors Life Insurance Co. Annuity Marketing and Sales Practices Litigation	14	15
	Sr.J. Thomas N. O'Neill, Jr.	MDL-1904 IN RE: OSI Restaurant Partners, LLC, Fair and Accurate Credit Transactions Act (FACTA) Litigation	4	4
	Sr.J. Louis H. Pollak	MDL-1817 IN RE: CertainTeed Corp. Roofing Shingle Products Liability Litigation	21	21
	D.J. Cynthia M. Rufe	MDL-1871 IN RE: Avandia Marketing, Sales Practices and Products Liability Litigation	130	130
	D.J. Timothy J. Savage	MDL-1675 IN RE: ACE Limited Securities Litigation	4	4
	D.J. Timothy J. Savage	MDL-1768 IN RE: Methyl Methacrylate (MMA) Antitrust Litigation	18	18
	D.J. Lawrence F. Stengel	MDL-1879 IN RE: Sterling Financial Corporation Securities Litigation	1	9
	D.J. Richard Barclay Surrick	MDL-1426 IN RE: Automotive Refinishing Paint Antitrust Litigation	61	63
	D.J. Richard Barclay Surrick	MDL-1912 IN RE: Fasteners Antitrust Litigation	20	20
PAM	D.J. Thomas I. Vanaskie	MDL-1556 IN RE: Pressure Sensitive Labelstock Antitrust Litigation	11	11
PAW	D.J. Gary L. Lancaster	MDL-1674 IN RE: Community Bank of Northern Virginia Mortgage Lending Practices Litigation	7	8
RI	C.J. Mary M. Lisi	MDL-1842 IN RE: Kugel Mesh Hernia Patch Products Liability Litigation	539	541
SC	Sr.J. C. Weston Houck	MDL-1865 IN RE: Household Goods Movers Antitrust Litigation	3	3
	C.J. David C. Norton	MDL-1785 IN RE: Bausch & Lomb Inc. Contact Lens Solution Products Liability Litigation	290	292
TNE	C.J. Curtis L. Collier	MDL-1552 IN RE: UnumProvident Corp. Securities, Derivative & "ERISA" Litigation	19	28
	D.J. J. Ronnie Greer	MDL-1899 IN RE: Southeastern Milk Antitrust Litigation	6	6
TNM	C.J. Todd J. Campbell	MDL-1760 IN RE: Aredia and Zometa Products Liability Litigation	380	388
	Sr.J. John T. Nixon	MDL-1537 IN RE: Nortel Networks Corp. "ERISA" Litigation	6	6
	D.J. Aleta A. Trauger	MDL-1457 IN RE: Allstate Insurance Co. Underwriting and Rating Practices Litigation	6	11
TNW	D.J. J. Daniel Breen	MDL-1551 IN RE: Reciprocal of America (ROA) Sales Practices Litigation	15	15

District	JUDGE	LITIGATION	Actions	Total
TXE	D.J. Leonard E. Davis D.J. T. John Ward	MDL-1512 IN RE: Electronic Data Systems Corp. Securities & "ERISA" Litigation MDL-1530 IN RE: Fleming Companies Inc. Securities & Derivative Litigation	4 10	29 22
TXN	Sr.J. A. Joe Fish D.J. Terry R. Means	MDL-1578 IN RE: UICI "Association-Group" Insurance Litigation MDL-1875 IN RE: RadioShack Corp. "ERISA" Litigation	2 4	28 4
TXS	D.J. Vanessa D. Gilmore D.J. Melinda Harmon D.J. Lynn N. Hughes D.J. Janis Graham Jack D.J. Sim Lake	MDL-1646 IN RE: Testmasters Trademark Litigation MDL-1446 IN RE: Enron Corp. Securities, Derivative & "ERISA" Litigation MDL-1609 IN RE: Service Corporation International Securities Litigation MDL-1810 IN RE: MERSCORP Inc., et al., Real Estate Settlement Procedures Act (RESPA) Litigation MDL-1886 IN RE: Refined Petroleum Products Antitrust Litigation	1 110 1 13 6	6 196 4 30 6
UT	D.J. Dale A. Kimball	MDL-1546 IN RE: Medical Waste Services Antitrust Litigation	1	8
VAE	D.J. Leonie M. Brinkema	MDL-1705 IN RE: Xybernaut Corp. Securities Litigation	9	10
WAW	Sr.J. John C. Coughenour D.J. Marsha J. Pechman D.J. Barbara Jacobs Rothstein	MDL-1896 IN RE: General Motors Corp. Speedometer Products Liability Litigation MDL-1919 IN RE: Washington Mutual, Inc., Securities, Derivative & "ERISA" Litigation MDL-1407 IN RE: Phenylpropanolamine (PPA) Products Liability Litigation	3 15 199	3 15 3,376
WY	C.J. William F. Downes	MDL-1293 IN RE: Natural Gas Royalties Qui Tam Litigation	74	83

# Exhibit C



# U.S. DISTRICT COURT - JUDICIAL CASELOAD PROFILE

					12-MONTH PERIOD ENDING SEPTEMBER 30							
CONNECTICUT					2007	2006	2005	2004	2003	2002	Numerical Standing	
OVERALL CASELOAD STATISTICS	Filings*				2,437	2,460	2,530	2,717	2,752	2,816	U.S.	Circuit
	Terminations				2,767	2,641	2,690	2,644	2,596	3,027		
	Pending				2,822	3,121	3,276	3,407	3,337	3,190		
	% Change in Total Filings		Over Last Year		-9						44	3
			Over Earlier Years		-3.7	-10.3	-11.5	-13.5	64	3		
Number of Judgeships					8	8	8	8	8	8		
Vacant Judgeship Months**					5.8	12.0	11.0	.0	6.5	.0		
ACTIONS PER JUDGESHIP	FILINGS	Total	304	308	317	340	345	353	77	5		
		Civil	257	261	272	293	294	307	60	5		
		Criminal Felony	30	36	32	35	37	36	90	6		
		Supervised Release Hearings**	17	11	13	12	14	10	65	6		
	Pending Cases			353	390	410	426	417	399	53	5	
	Weighted Filings**			368	376	379	409	396	420	68	5	
	Terminations			346	330	336	331	325	378	71	5	
	Trials Completed			10	12	15	16	17	20	88	6	
MEDIAN TIMES (months)	From Filing to Disposition	Criminal Felony	12.4	13.9	12.2	11.4	9.5	10.9	82	3		
		Civil**	10.5	11.6	11.4	11.6	10.5	10.1	72	3		
	From Filing to Trial** (Civil Only)			27.0	29.8	32.4	31.0	30.0	31.0	54	3	
OTHER	Civil Cases Over 3 Years Old**	Number	252	339	358	325	318	231				
		Percentage	10.4	12.5	12.3	10.7	10.6	8.1	82	3		
	Average Number of Felony Defendants Filed Per Case			1.9	1.6	1.8	1.7	1.4	1.8			
	Jurors	Avg. Present for Jury Selection	60.26	52.82	56.95	63.51	54.54	46.25				
		Percent Not Selected or Challenged	35.5	32.4	38.6	32.7	31.7	34.2				

2007 CIVIL AND CRIMINAL FELONY FILINGS BY NATURE OF SUIT AND OFFENSE													
Type of	TOTAL	A	B	C	D	E	F	G	H	I	J	K	L
Civil	2056	50	48	265	47	20	122	291	205	115	496	5	392
Criminal*	234	1	69	11	29	59	8	14	9	9	3	9	13

\* Filings in the "Overall Caseload Statistics" section include criminal transfers, while filings "By Nature of Offense" do not.

\*\* See "Explanation of Selected Terms."

# U.S. DISTRICT COURT - JUDICIAL CASELOAD PROFILE

				12-MONTH PERIOD ENDING SEPTEMBER 30							
ILLINOIS NORTHERN				2007	2006	2005	2004	2003	2002	Numerical Standing	
OVERALL CASELOAD STATISTICS	Filings*			8,422	8,093	9,056	10,584	11,126	11,135	U.S.	Circuit
	Terminations			7,929	8,255	8,805	11,461	10,888	10,709		
	Pending			8,091	7,711	7,914	7,706	8,699	8,587		
	% Change in Total Filings	Over Last Year		4.1						27	2
		Over Earlier Years			-7.0	-20.4	-24.3	-24.4		81	6
Number of Judgeships				22	22	22	22	22	22		
Vacant Judgeship Months**				15.8	5.7	12.0	9.6	22.1	17.8		
ACTIONS PER JUDGESHIP	FILINGS	Total	382	367	412	481	505	506	62	4	
		Civil	346	330	369	437	461	459	36	3	
		Criminal Felony	24	26	34	32	38	39	93	7	
		Supervised Release Hearings**	12	11	9	12	6	8	77	6	
	Pending Cases			368	351	360	350	395	390	48	3
	Weighted Filings**			462	443	485	512	526	525	39	3
	Terminations			360	375	400	521	495	487	66	5
	Trials Completed			11	11	13	12	12	14	86	6
MEDIAN TIMES (months)	From Filing to Disposition	Criminal Felony	14.7	13.9	12.9	10.3	9.9	10.3	90	7	
		Civil**	6.2	6.5	6.9	5.9	5.5	5.5	7	2	
	From Filing to Trial** (Civil Only)			29.7	26.4	27.0	28.4	26.0	26.0	65	5
OTHER	Civil Cases Over 3 Years Old**	Number	456	500	388	337	442	461			
		Percentage	6.5	7.4	5.6	5.0	5.6	6.0	65	6	
	Average Number of Felony Defendants Filed Per Case			1.7	1.8	1.9	1.9	1.7	1.7		
	Jurors	Avg. Present for Jury Selection	45.20	45.07	51.46	39.36	45.57	43.63			
		Percent Not Selected or Challenged	31.8	30.9	36.9	31.0	37.3	34.8			

2007 CIVIL AND CRIMINAL FELONY FILINGS BY NATURE OF SUIT AND OFFENSE													
Type of	TOTAL	A	B	C	D	E	F	G	H	I	J	K	L
Civil	7620	118	150	701	53	55	1504	902	563	428	1614	23	1509
Criminal*	527	1	152	59	43	107	80	13	6	17	11	11	27

\* Filings in the "Overall Caseload Statistics" section include criminal transfers, while filings "By Nature of Offense" do not.

\*\* See "Explanation of Selected Terms."

# **EXHIBIT 3**



FREED KANNER LONDON & MILLEN LLC

May 7, 2008

direct dial: 224.632.4507  
rwozniak@fkmlaw.com

**VIA FEDERAL EXPRESS**

Jeffrey N. Lüthi, Clerk of the Panel  
Judicial Panel on Multidistrict Litigation  
Thurgood Marshall Federal Judiciary Building  
One Columbus Circle, NE  
Room G-255, North Lobby  
Washington, DC 20002-8004

Re: *In re Aftermarket Filters Antitrust Litigation*, MDL Docket No. 1957

Dear Mr. Lüthi:

Enclosed for filing please find an original and four copies of Plaintiff Neptune Warehouse Distributors, Inc.'s Joinder to Motion of Plaintiff Lovett Auto & Tractor Parts, Inc. for Transfer of Actions to the Northern District of Illinois Pursuant to 28 U.S.C. § 1407 for Coordinated or Consolidated Pretrial Proceedings along with a CD-ROM containing the same in both Microsoft Word and PDF formats.

Also enclosed for filing are originals of the following documents: (1) Notice of Appearance of Michael J. Freed on Behalf of Neptune Warehouse Distributor's, Inc., (2) Notice of Related Action by Plaintiff Neptune Warehouse Distributors, Inc. and (3) Proof of Service.

Please file-stamp and return the copy set of the above documents to me in the enclosed self-addressed, stamped envelope. Thank you for your assistance.

Sincerely,

Robert J. Wozniak

RJW/sw

Enclosures

cc: Parties on Panel and Supplemental Service List (via First Class Mail)



**BEFORE THE JUDICIAL PANEL ON  
MULTIDISTRICT LITIGATION**

---

**IN RE AFTERMARKET FILTERS  
ANTITRUST LITIGATION**

---

**MDL NO. 1957**

**PLAINTIFF NEPTUNE WAREHOUSE DISTIBUTORS, INC.'S  
JOINDER TO MOTION OF PLAINTIFF LOVETT AUTO & TRACTOR PARTS, INC.  
FOR TRANSFER OF ACTIONS TO THE NORTHERN DISTRICT OF ILLINOIS  
PURSUANT TO 28 U.S.C. § 1407 FOR COORDINATED OR CONSOLIDATED  
PRETRIAL PROCEEDINGS**

**I. The Aftermarket Filters Antitrust Cases**

Neptune Warehouse Distributors, Inc. filed an antitrust class action complaint on April 23, 2008, in the United States District Court Northern District of Illinois, alleging that Defendants violated federal antitrust laws by conspiring to fix prices for Aftermarket Filters throughout the United States. To date, at least thirteen complaints have been filed in federal district courts around the country based on the same or similar allegations, including at least two in the Northern District of Illinois<sup>1</sup>. (See Schedule of Related Actions attached hereto as Exhibit A.) At least two previous motions have been filed before the Judicial Panel on Multidistrict Litigation ("the Panel") for the purpose of consolidating for pretrial purposes all of the Aftermarket Filters Antitrust Cases in one district court pursuant to 28 U.S.C. § 1407. Plaintiff Neptune Warehouse Distributors, Inc. agrees with the other petitioners that transfer of all related actions to a single forum for consolidated or coordinated pretrial proceedings will further

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<sup>1</sup> A third complaint was filed in the Northern District of Illinois, but dismissed and refiled in the District of Connecticut.

convenience of the parties and witnesses, will promote efficiency and judicial economy, and will eliminate the possibility of conflicting pretrial rulings. These cases present many common questions of fact and substantially identical legal theories, a sufficient basis to satisfy the transfer requirements of Section 1407.

## **II. The Northern District of Illinois is an Appropriate Forum for the Aftermarket Filters Antitrust Cases**

Plaintiff Neptune Warehouse Distributors, Inc. joins in Plaintiff Lovett Auto & Tractor Parts, Inc.'s Motion for Transfer of Actions to the Northern District of Illinois. The Northern District of Illinois is an appropriate forum as three of the Defendants are located in the Northern District of Illinois, and a fourth is located in close proximity to the Northern District of Illinois. Where, as here, principal Defendants are located in or near a potential transferee district, the Panel has found that the geographic nexus favors transfer to that jurisdiction. *See In re Webloyalty.com Inc., Marketing and Sales Practices Litig.*, 474 F. Supp. 2d 1353, 1354 (J.P.M.L. 2007).

Moreover, the Northern District of Illinois has the experience, time, and resources to manage this complex litigation. For these reasons, and all of the reasons in the above-referenced Motion and Brief in Support thereof, Plaintiff Neptune Warehouse Distributors, Inc. requests that the Panel transfer the related actions to the Northern District of Illinois.

DATED: May 7, 2008

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& MILLEN LLC



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*Attorneys for Plaintiff  
and the Proposed Class*

**RULE 7.2(a)(ii) SCHEDULE OF RELATED ACTIONS**

<b>CASE CAPTION</b>	<b>COURT</b>	<b>CIVIL ACTION NO.</b>	<b>JUDGE</b>	<b>DATE FILED</b>
<b>Plaintiff:</b> Lovett Auto & Tractor Parts, Inc.  <b>Defendants:</b> Champion Laboratories Inc.; Purolator Filters N.A. L.L.C.; Honeywell International, Inc.; Wix Filtration Corp. LLC; Cummins Filtration, Inc.; The Donaldson Company; Baldwin Filters, Inc.; Bosch U.S.A.; Mann + Hummell U.S.A., Inc.; Arvinmeritor, Inc.	N.D. Illinois	08-CV-2046	Robert W. Gettleman	4/10/08
<b>Plaintiff:</b> Neptune Warehouse Distributors, Inc.  <b>Defendants:</b> Champion Laboratories Inc.; Purolator Filters N.A. L.L.C.; Honeywell International, Inc.; Wix Filtration Corp. LLC; Cummins Filtration, Inc.; The Donaldson Company; Baldwin Filters, Inc.; Bosch U.S.A.; Mann + Hummell U.S.A., Inc.; Arvinmeritor, Inc.	N.D. Illinois	08-CV-2317	Rebecca R. Pallmeyer	4/23/08
<b>Plaintiff:</b> Manasek Auto Parts, Inc., d/b/a Undercar Warehouse  <b>Defendants:</b> Champion Laboratories Inc.; Purolator Filters N.A. L.L.C.; Honeywell International, Inc.; Wix Filtration Corp. LLC; Cummins Filtration, Inc.; The Donaldson Company; Baldwin Filters, Inc.; Bosch U.S.A.; Mann + Hummell U.S.A., Inc.; Arvinmeritor, Inc.	S.D. Illinois	08-CV-00305	G. Patrick Murphy	4/23/08
<b>Plaintiff:</b> Big T Inc., t/d/b/a A to Z Auto Parts  <b>Defendants:</b> Champion Laboratories Inc.; Purolator Filters N.A. L.L.C.; Honeywell International, Inc.; Wix Filtration Corp. LLC; Cummins Filtration, Inc.; The Donaldson Company; Baldwin Filters, Inc.; Bosch U.S.A.; Mann + Hummell U.S.A., Inc.; Arvinmeritor, Inc.	S.D. Illinois	08-cv-00331	David R. Herndon	5/6/08

<b>Plaintiff:</b> S & E Quick Lube Distributors, Inc.  <b>Defendants:</b> Champion Laboratories Inc.; Purolator Filters N.A. L.L.C.; Honeywell International, Inc.; Wix Filtration Corp. LLC; Cummins Filtration, Inc.; The Donaldson Company; Baldwin Filters, Inc.; Bosch U.S.A.; Mann + Hummell U.S.A., Inc.; Arvinmeritor, Inc.; United Components, Inc.; The Carlyle Group	D. Connecticut	08-CV-00475-JBA	Janet Bond Arterton	3/31/08
<b>Plaintiff:</b> Flash Sales, Inc.  <b>Defendants:</b> Champion Laboratories Inc.; Purolator Filters N.A. L.L.C.; Honeywell International, Inc.; Wix Filtration Corp. LLC; Cummins Filtration, Inc.; The Donaldson Company; Baldwin Filters, Inc.; Bosch U.S.A.; Mann + Hummell U.S.A., Inc.; Arvinmeritor, Inc.; United Components, Inc.; The Carlyle Group	D. Connecticut	08-CV-00512-CFD	Christopher F. Droney	4/4/08
<b>Plaintiff:</b> William C. Bruene d/b/a/ Lone Star Lube  <b>Defendants:</b> Champion Laboratories Inc.; Purolator Filters N.A. L.L.C.; Honeywell International, Inc.; Wix Filtration Corp. LLC; Cummins Filtration, Inc.; The Donaldson Company; Baldwin Filters, Inc.; Bosch U.S.A.; Mann + Hummell U.S.A., Inc.; Arvinmeritor, Inc.; United Components, Inc.; The Carlyle Group	D. Connecticut	08-CV-00522-SRU	Stefan R. Underhill	4/8/08
<b>Plaintiff:</b> T.D.S. Company, Inc. d/b/a TWI Auto Parts & Supplies  <b>Defendants:</b> Champion Laboratories Inc.; Purolator Filters N.A. L.L.C.; Honeywell International, Inc.; Wix Filtration Corp. LLC; Cummins Filtration, Inc.; The Donaldson Company; Baldwin Filters, Inc.; Bosch U.S.A.; Mann + Hummell U.S.A., Inc.; Arvinmeritor, Inc.; United Components, Inc.; The Carlyle Group	D. Connecticut	08-CV-00528-MRK	Mark R. Kravitz	4/9/08

<b>Plaintiff:</b> Packard Automotive  <b>Defendants:</b> Champion Laboratories Inc.; Purolator Filters N.A. L.L.C.; Honeywell International, Inc.; Wix Filtration Corp. LLC; Cummins Filtration, Inc.; The Donaldson Company; Baldwin Filters, Inc.; Bosch U.S.A.; Mann + Hummell U.S.A., Inc.; Arvinmeritor, Inc.; United Components, Inc.	D. Connecticut	08-CV-00600-PCD	Peter C. Dorsey	4/21/08
<b>Plaintiff:</b> The Parts Plus Group, Inc.  <b>Defendants:</b> Champion Laboratories Inc.; Purolator Filters N.A. L.L.C.; Honeywell International, Inc.; Wix Filtration Corp. LLC; Cummins Filtration, Inc.; The Donaldson Company; Baldwin Filters, Inc.; Bosch U.S.A.; Mann + Hummell U.S.A., Inc.; Arvinmeritor, Inc.; United Components, Inc.	D. Connecticut	08-cv-00637-VLB	Vanessa L. Bryant	4/28/08
<b>Plaintiff:</b> Ward Auto Painting & Body Works, Inc.  <b>Defendants:</b> Champion Laboratories Inc.; Purolator Filters N.A. L.L.C.; Honeywell International, Inc.; Wix Filtration Corp. LLC; Cummins Filtration, Inc.; The Donaldson Company; Baldwin Filters, Inc.; Bosch U.S.A.; Mann + Hummell U.S.A., Inc.; Arvinmeritor, Inc.; United Components, Inc.	D. Connecticut	08-cv-00660-MRK	Mark R. Kravitz	4/30/08
<b>Plaintiff:</b> Randall Bethea and James Padgett  <b>Defendants:</b> Champion Laboratories Inc.; Purolator Filters N.A. L.L.C.; Honeywell International, Inc.; Wix Filtration Corp. LLC; Cummins Filtration, Inc.; The 08-cv-00126Donaldson Company; Baldwin Filters, Inc.; Bosch U.S.A.; Mann + Hummell U.S.A., Inc.; Arvinmeritor, Inc.	E.D. Tennessee	08-cv-00126	J. Ronnie Greer	4/28/08

<b>Plaintiff:</b> Central Warehouse Sales Corporation	D. New Jersey	08-cv-02123	Katharine S. Hayden	4/29/08
<b>Defendants:</b> Champion Laboratories Inc.; Purolator Filters N.A. L.L.C.; Honeywell International, Inc.; Wix Filtration Corp. LLC; Cummins Filtration, Inc.; The Donaldson Company; Baldwin Filters, Inc.; Bosch U.S.A.; Mann + Hummell U.S.A., Inc.; Arvinmeritor, Inc.; United Components, Inc.; The Carlyle Group				

**BEFORE THE JUDICIAL PANEL ON  
MULTIDISTRICT LITIGATION**

**IN RE AFTERMARKET FILTERS  
ANTITRUST LITIGATION**

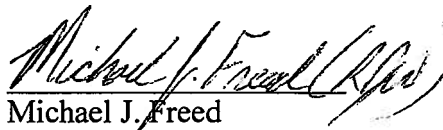
**MDL NO. 1957**

**NOTICE OF APPEARANCE OF MICHAEL J. FREED  
ON BEHALF OF NEPTUNE WAREHOUSE DISTRIBUTORS, INC.**

Pursuant to Rule 5.2(c) of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, plaintiff Neptune Warehouse Distributors, Inc., the plaintiff in *Neptune Warehouse Distributors, Inc. v. Champion Laboratories, et al.*, Case No. 08-CV-2317, hereby designates the undersigned attorney, Michael J. Freed, to receive service of all pleadings, notices, orders, and other papers relating to practice before the Judicial Panel on Multidistrict Litigation.

DATED: May 7, 2008

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*Attorneys for Plaintiff  
and the Proposed Class*

MAY 12 2008

**BEFORE THE JUDICIAL PANEL ON  
MULTIDISTRICT LITIGATION**

**IN RE AFTERMARKET FILTERS  
ANTITRUST LITIGATION**

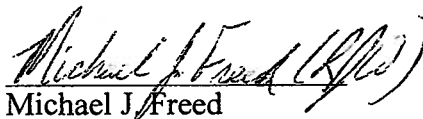
**MDL NO. 1957**

**NOTICE OF RELATED ACTION BY PLAINTIFF  
NEPTUNE WAREHOUSE DISTRIBUTORS, INC.**

PLEASE TAKE NOTICE that the following related action was filed in the United States District Court for the Northern District of Illinois on April 23, 2008, and assigned to the Honorable Rebecca R. Pallmeyer: *Neptune Warehouse Distributors, Inc. v. Champion Laboratories, et al.*, Case No. 08-CV-2317. A copy of the Complaint is attached hereto as Exhibit A.

DATED: May 7, 2008

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& MILLEN LLC



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*Attorneys for Plaintiff  
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# **EXHIBIT A**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

NEPTUNE WAREHOUSE DISTRIBUTORS, )  
INC., individually and on behalf of all others )  
similarly situated, )

Plaintiff,

v.

CHAMPION LABORATORIES, INC.;  
PUROLATOR FILTERS N.A. L.L.C.;  
HONEYWELL INTERNATIONAL INC.; WIX  
FILTRATION CORP. LLC; CUMMINS  
FILTRATION, INC.; THE DONALDSON  
COMPANY; BALDWIN FILTERS, INC.;  
BOSCH U.S.A.; MANN + HUMMELL U.S.A.,  
INC.; and ARVINMERITOR, INC.,

**Defendants.**

CIVIL ACTION NO. \_\_\_\_\_

## CLASS ACTION COMPLAINT

## JURY TRIAL DEMANDED

FILED: APRIL 23, 2008

08CV2317      PH

JUDGE PALLMEYER

MAGISTRATE JUDGE MASON

Plaintiff Neptune Warehouse Distributors, Inc. ("Plaintiff"), on behalf of itself and all others similarly situated in the class defined below, brings this action for treble damages under the antitrust laws of the United States against Champion Laboratories, Inc.; Purolator Filters N.A. L.L.C.; Honeywell International Inc.; Wix Filtration Corp. LLC; Cummins Filtration, Inc.; The Donaldson Company; Baldwin Filters, Inc.; Bosch U.S.A.; Mann + Hummell U.S.A., Inc.; and ArvinMeritor, Inc. (collectively, "Defendants"), and alleges as follows upon information and belief:

## **JURISDICTION AND VENUE**

1. Plaintiff brings this action pursuant to Sections 4 and 16 of the Clayton Act, 15 U.S.C. §§ 15 and 26, to recover treble damages, equitable relief, expenses and costs of suit for injuries sustained by Plaintiff and the Class resulting from violations by Defendants of Section 1 of the Sherman Act, 15 U.S.C. § 1. Subject matter jurisdiction is proper pursuant to Section 4(a)

of the Clayton Act, 15 U.S.C. § 15(a), and 28 U.S.C. § 1331 and 1337, because the action arises under the laws of the United States.

2. Defendants are found or transact business within this district and Defendants' interstate trade and commerce is carried out, in substantial part, in this district. Venue therefore lies within this district under 15 U.S.C. § 22 and 28 U.S.C. § 1391(b) and (c).

3. This Court has personal jurisdiction over each Defendant because, *inter alia*, each Defendant: (a) transacted business throughout the United States, including in this District; (b) manufactured, sold, shipped and delivered substantial quantities of Filters throughout the United States, including in this District; (c) had substantial contacts with the United States, including in this District; and (d) was engaged in an illegal scheme and price-fixing conspiracy that was directed at and had the intended effect of causing injury to persons residing in, located in, or doing business throughout the United States, including in this District.

4. Jurisdiction over all Defendants comports with the United States Constitution, and 15 U.S.C. §§ 15, 22 and 26.

#### **DEFINITIONS**

5. "Filters" includes, among other things, replacement oil, air, fuel and transmission filters manufactured by the Defendants. Filters are utilized to remove contaminants from combustion engines and related systems. Oil filters remove contaminants from the motor oil used to lubricate an engine's pistons; fuel filters primarily screen dirt and rust particles from an engine's fuel lines; air filters prevent particulate matter from entering an engine's cylinders; and transmission filters ensure the proper functioning of an engine's transmission systems.

#### **PARTIES**

6. Plaintiff Neptune Warehouse Distributors, Inc. is a business located in Chelsea, Massachusetts. During the time period covered by the Complaint, Plaintiff purchased Filters

directly from one or more of the Defendants or their subsidiaries and was injured by reason of the antitrust violations alleged herein.

7. Defendant Purolator Filters N.A. L.L.C. is headquartered in Fayetteville, North Carolina, with a principal mailing address of 2800 South 25th Ave., Broadview, Illinois 60565. Purolator Filters N.A. L.L.C. is a joint venture between Bosch U.S.A. and Mann + Hummel U.S.A., Inc. During the time period covered in this complaint, Defendant manufactured, sold and distributed Filters throughout the United States.

8. Defendant Bosch U.S.A. is headquartered in Broadview, Illinois, with its business address at 2800 S. 25th Ave., Broadview, Illinois 60155. During the time period covered in this complaint, Defendant manufactured, sold and distributed Filters throughout the United States.

9. Defendant Mann + Hummel U.S.A., Inc., is headquartered in Portage, Michigan, with its business address at 6400 S. Sprinkle Road, Portage, Michigan 49002. During the time period covered in this complaint, Defendant manufactured, sold and distributed Filters throughout the United States.

10. Defendant ArvinMeritor, Inc. is headquartered in Troy, Michigan, with its address at 2135 West Maple Road, Troy, Michigan 48084. During the time period covered in this complaint, Defendant manufactured, sold and distributed Filters throughout the United States. ArvinMeritor, Inc. owned Purolator Filters N.A. L.L.C. from January 1999 through March 2006. Thereafter it sold Purolator Filters N.A. L.L.C. to Bosch U.S.A. and Mann + Hummel U.S.A., Inc. Hereinafter, Purolator Filters N.A. L.L.C.; Bosch U.S.A.; Mann + Hummel U.S.A., Inc.; and ArvinMeritor, Inc. are collectively referred to as "Purolator."

11. Defendant Champion Laboratories, Inc. ("Champion") is headquartered at Albion, Illinois, with its business address at 200 S. Fourth St., Albion, Illinois 62806. During the

time period covered in this complaint, Defendant manufactured, sold and distributed Filters throughout the United States.

12. Defendant Wix Filtration Corp. LLC ("Wix") is headquartered in Gastonia, North Carolina with its address at 1101 Technology Drive, Ann Arbor, Michigan 48108 listed with the North Carolina Secretary of State. During the time period covered in this complaint, Defendant manufactured, sold and distributed Filters throughout the United States.

13. Defendant Honeywell International, Inc., ("Honeywell") is headquartered at Morristown, New Jersey, with its business address located at 101 Columbia Road, Morristown, New Jersey 07962. During the time period covered in this complaint, Defendant manufactured, sold and distributed Filters throughout the United States.

14. Defendant Cummins Filtration, Inc., ("Cummins") is headquartered in Nashville, Tennessee, with its business address located at 2931 Elm Hill Pike, Nashville, Tennessee 37214. During the time period covered in this complaint, Defendant manufactured, sold and distributed Filters throughout the United States.

15. Defendant The Donaldson Company ("Donaldson") is a corporation headquartered in Minneapolis, Minnesota, with its business address located at 1400 W. 94<sup>th</sup> St., Minneapolis, Minnesota 55431. During the time period covered in this complaint, Defendant manufactured, sold and distributed Filters throughout the United States.

16. Defendant Baldwin Filters, Inc. ("Baldwin") is headquartered in Kearney, Nebraska, with its business address located at 4400 E. Hwy. 30, Kearney, Nebraska 68848. During the time period covered in this complaint, Defendant manufactured, sold and distributed Filters throughout the United States.

#### **CO-CONSPIRATORS**

17. Whenever in this Complaint reference is made to any act, deed, or transaction of



any corporation, the allegation means that the corporation engaged in the act, deed or transaction by or through its officers, directors, agents, employees or representatives while they were actively engaged in the management, direction, control, or transaction of the corporation's business or affairs.

18. The acts alleged in this Complaint to have been done by Defendants were authorized, ordered and condoned by their parent corporations and authorized, ordered and performed by their officers, directors, agents, employees, or representatives while engaged in the management, direction, control or transaction of their business affairs.

19. Various other persons, firms, and corporations not named as Defendants have participated as co-conspirators in the violations alleged herein and have performed acts and made statements in furtherance thereof.

#### **CLASS ACTION ALLEGATIONS**

20. Plaintiff brings this action pursuant to Federal Rule of Civil Procedure, Rules 23(a) and (b)(3) on behalf of the following class (the "Class"):

All individuals or entities who, during the period from January 1, 1999 through the present, purchased Filters in the United States directly from the Defendants or any of their parents, affiliates, subsidiaries, predecessors or successors in interest, at any time. Excluded from the Class are Defendants and their officers, directors, management, employees, subsidiaries or affiliates and all entities owned by the federal government.

21. Plaintiff does not know the exact number of Class members because such information is in the exclusive control of Defendants or their coconspirators. Due to the nature of the trade and commerce involved, however, Plaintiff believes that Class members number at least in the hundreds if not thousands and thus are sufficiently numerous and geographically dispersed throughout the United States so that joinder of all members is impracticable.

22. Plaintiff is a member of the Class, and Plaintiff's claims are typical of the claims of

members of the Class as Plaintiff and all members of the Class are similarly affected by Defendants' wrongful conduct in violation of the antitrust laws. All members of the Class have paid artificially inflated prices for Filters. Additionally, all members of the Class were harmed because Defendants' anticompetitive practices deprived the Class members of competitive markets for Filters.

23. Plaintiff will fairly and adequately protect the interests of the members of the Class and has retained counsel competent and experienced in the prosecution of class actions and antitrust litigation.

24. Common questions of law and fact exist as to all members of the Class and predominate over any questions solely affecting individual members of the Class. Such common questions of law and fact include:

- a. Whether Defendants and their co-conspirators engaged in a conspiracy to fix, raise, maintain or stabilize the price of Filters;
- b. Whether Defendants' wrongful conduct caused antitrust injury to Plaintiff and the other members of the Class;
- c. Whether the unlawful conduct of Defendants caused Plaintiff and the other Class members to pay more for Filters than they otherwise would have paid absent Defendants' conduct;
- d. The appropriate Class-wide measure of damages; and
- e. The appropriate scope of injunctive relief.

25. Plaintiff knows of no difficulty that would prevent this case from being maintained as a class action and class action treatment is a superior method for the fair and efficient adjudication of this controversy. Class action treatment will, among other things, allow a large number of similarly situated persons and/or entities to prosecute their common claims in a single forum, thus avoiding the unnecessary duplication of resources that numerous individual actions would require. Moreover, class action treatment allows injured persons the ability to seek redress on claims that might be impracticable to pursue individually.

### **TRADE AND COMMERCE**

26. At all material times, Defendants provided Filters to their customers across state lines.

27. During the relevant time period, in connection with purchase and sale of Filters, monies as well as contracts, bills and other forms of business communication and transactions were transmitted in continuous and uninterrupted flow across state lines.

28. During the relevant time period, various devices were used to effectuate the illegal acts alleged herein, including the United States mail, interstate travel, and interstate commerce. The activities of Defendants as charged in this Complaint were within the flow of, and have substantially affected, interstate commerce.

### **THE FILTERS INDUSTRY**

29. Filters are utilized to remove contaminants from combustion engines and related systems. Filters become less effective over time as contaminants are filtered out of the respective engine systems, and they are designed to be replaced periodically. Replacement filters are purchased to replace original equipment filters included in new motors.

30. Oil, air, fuel and transmission filters are primarily sold into two separate channels: (i) to Original Equipment Manufacturers ("OEM") and (ii) to aftermarket sellers of replacement Filters ("Aftermarket Sellers").

31. OEMs purchase filters for use in connection with new vehicles. These filters are installed in vehicles during the production process.

32. The United States Filters markets are highly concentrated, with just a handful of major producers manufacturing and producing these products. This concentration, as well as interlocking business arrangements, assisted Defendants in successfully implementing their conspiracy. For example, in April 2006, Defendant ArvinMeritor sold Defendant Purolator to

Defendants Bosch and Mann + Hummel. Defendants Bosch and Mann + Hummel now operate Defendant Purolator as a joint venture. Mann + Hummel, CEO Dieter Seipler has stated that "it was a natural alliance because Bosch is a major private-brand customer for Mann + Hummel in Europe and in other regions of the world."

33. Annual revenues for Filters markets in the United States are approximately \$3 billion to \$5 billion.

34. On January 19, 2006, William G. Burch, former employee of both Purolator N.A. L.L.C. and Champion Laboratories, Inc. ("Champion"), filed a complaint against Champion in state court in Tulsa, Oklahoma, alleging, among other things, that Mr. Burch was wrongfully terminated from his employment with Champion for knowing about, and subsequently reporting to authorities, the antitrust violations alleged in the Pending Actions.

35. On March 25, 2008, Burch, a former National Accounts and Division Sales Manager for Defendant Champion, executed an affidavit under oath in *Champion Laboratories, Inc. v. Burch*, 06-CV-4031 (JPG) (S.D. Ill.). This affidavit, which is made on the basis of personal knowledge, states as follows:

- a. Burch "became aware that Champion was involved in activities with Champion's competitors that constitute price-fixing. For example, Champion provided information concerning price increases to competitors before it provided that information to consumers or to the general public. Champion was also given advance information about price increases by its competitors. Further information is set forth accurately and in detail in the mediation statement dated September 21, 2007, that I understand will be filed under seal in this case."
- b. Burch also stated that "[d]uring the time I worked for Champion, I was directed by Champion to conduct discussions regarding 'pricing' with employees of competitors of Champion. I refused to conduct those discussions."

36. Many of the allegations contained herein, particularly those with respect to the specifics of meetings between the Defendants, are based on alleged recorded conversations and

the personal knowledge of this former employee.

37. As a Division Sales Manager responsible for monitoring and coordinating terms of sales, the former employee was privy to, among other things, exchanges of confidential pricing materials by which Defendants unlawfully agreed to the timing and magnitude of price increases throughout the Class period. These include, among other acts, the following:

- a. on June 28, 1999, a Purolator executive faxed an executive at Honeywell a letter which announced a 6% increase on all Purolator branded filters effective August 15, 1999, but did not send a price increase notification to Purolator's customers until July 1999;
- b. at a trade convention called the Heritage Show in May 1999, representatives of Defendants agreed in person, on behalf of their respective employers, to raise prices for Filters, and Defendants later raised prices in accordance with the wrongful agreements reached at the Heritage Show;
- c. in February 2004, Champion's President informed his sales team that Champion was about to raise prices and told them to make sure Champion's "competitors" were aware of the increase and adjusted their prices accordingly, both in timing and amount, pursuant to wrongful agreements previously reached, which the employees accomplished by meeting with Defendants' representatives;
- d. in 2004, an internal Champion e-mail with the subject line "Price Increases" confirmed that the other Defendants were in agreement regarding a coordinated price increase; and
- e. pursuant to the unlawful agreement, Defendants each instituted similar price increases, in amounts of approximately 4-6%, at the same times.

38. Defendants engaged in repeated in-person meetings to further their anticompetitive scheme. Many of these meetings occurred at the annual Filter Manufacturers Council meeting in Nashville, Tennessee. The Filter Manufacturers Council is a trade organization comprised of the Defendants and other industry participants.

#### **VIOLATIONS ALLEGED**

39. Beginning at least as early as January 1, 1999 and continuing thereafter, Defendants and their co-conspirators, by and through their officers, directors, employees, agents, or other

representatives, entered in a continuing contract, combination or conspiracy in unreasonable restraint of trade and commerce in violation of § 1 of the Sherman Act, 15 U.S.C. § 1.

40. The contract, combination or conspiracy consisted of a continuing agreement, understanding and concert of action among Defendants and their co-conspirators, the substantial terms of which were to fix, raise, maintain and stabilize the prices of, and/or allocate the market for, Filters sold in the United States and elsewhere.

41. As a result of their unlawful actions, Defendants were able to force coordinated price increases on the Filters markets.

42. Defendants' unlawful conduct took many forms, including but not limited to:

- a. attending meetings and/or otherwise exchanging information regarding the pricing and sale of Filters;
- b. selling Filters to customers at collusive and non-competitive prices;
- c. agreeing to sell Filters at specified; pre-arranged prices;
- d. agreeing not to compete for each other's customers;
- e. accepting payment at non-competitive prices;
- f. giving actual and/or apparent authority to employees' participation in furtherance of the wrongful conduct; and
- g. fraudulently concealing the wrongful conduct.

43. Defendants' wrongful conduct in manipulating prices was undertaken in order to charge artificially inflated prices for their Filters.

44. As a direct result of the unlawful conduct of Defendants and their co-conspirators in furtherance of their continuing contract, combination, or conspiracy, Plaintiff and other members of the Class have been injured in their business and property in that they have paid more for Filters than they would have paid in the absence of Defendants' and its co-conspirators' price fixing.

### **EFFECTS**

45. The above combination and conspiracy has had the following effects, among others:

- a. price competition in the sale of Filters by Defendants and their co-conspirators has been restrained, suppressed and eliminated throughout the United States;
- b. prices for Filters sold by Defendants and their co-conspirators have been raised, fixed, maintained and stabilized at artificially high and noncompetitive levels throughout the United States; and
- c. purchasers of Filters from Defendants and their co-conspirators have been deprived of the benefit of free and open competition.

46. As a direct and proximate result of the unlawful conduct of Defendants and their co-conspirators, Plaintiff and other members of the Class have been injured in their business and property in that they paid more for Filters than they otherwise would have paid in the absence of the unlawful conduct of Defendants and their co-conspirators.

### **DAMAGES**

47. During the Class Period, Plaintiff and the other members of the class purchased Filters directly from Defendants, or their subsidiaries, agent, or co-conspirators, and by reason of the antitrust violations herein alleged, paid more for such products than they would have paid in the absence of such antitrust violations. As a result, Plaintiff and the other members of the Class have sustained damages to their business and property in an amount to be determined at trial.

### **FRAUDULENT CONCEALMENT**

48. Plaintiff and other members of the Class had no knowledge of Defendants' unlawful scheme and could not have discovered Defendants' unlawful conduct at an earlier date by the exercise of due diligence. Defendants affirmatively concealed their illegal acts and these acts only

recently became known to the public through filings in the aforementioned litigation in the Southern District of Illinois. As a result of Plaintiff's lack of knowledge of the effects of Defendants' unlawful scheme, Plaintiff asserts the tolling of any applicable statutes of limitations affecting the right of action by Plaintiff and other members of the Class.

49. Moreover, Defendants' actions constitute a continuing violation in that Defendants' anticompetitive practices resulted in unlawfully priced Filters, and each and every such transaction at artificially inflated prices is an overt act that injured Plaintiff and other members of the Class. These artificially inflated prices continue to exist in the relevant markets as Defendants' have yet to cease their unlawful conduct. Upon each and every instance that Defendants failed to disclose their illegal conduct and their effect on the prices paid by Plaintiff and the Class, Defendants knew or should have known that the undisclosed information was material to those who purchased such products.

50. In addition, Defendants committed numerous additional overt acts in furtherance of their conspiracy, both within and prior to four years from the date of the filing of this Complaint. Such overt acts include the illegal meetings and communications regarding Filter prices described herein.

51. Therefore, each instance in which Defendants engaged in the conduct complained of herein and each instance in which a Class member unknowingly paid supra-competitive prices for Filters constitutes part of a continuing violation and operates to toll any applicable statutes of limitation. Furthermore, Defendants are estopped from relying on any statute of limitations defense because of their unfair and deceptive conduct.



**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, on behalf of itself and the Class, respectfully prays:

- A. that this Court declare this action to be a proper class action under Fed. R. Civ. P. 23(b)(3) on behalf of the Class as defined herein, and direct that reasonable notice of this action, as provided by Fed. R. Civ. P. 23(c)(2), be given each member of the class;
- B. that this Court declare the unlawful combination and conspiracy alleged herein to be an unreasonable restraint of trade of commerce in violation of § 1 of the Sherman Act, 15 U.S.C. § 1;
- C. that this Court enjoin, preliminarily and permanently, Defendants from continuing the unlawful combination and conspiracy alleged herein;
- D. that this Court award Plaintiff and each member of the Class damages, as provided by law, and that joint and several judgments in favor of Plaintiff and each member of the Class be entered against Defendants and each of them in an amount to be trebled in accordance with the antitrust laws;
- E. that this Court award Plaintiff and the Class the costs of this suit (including expert fees), and reasonable attorneys fees, as provided by law; and
- F. that this Court award such other and further relief as the nature of this case may require or as may be just, equitable and proper to this Court.

**JURY DEMAND**

Plaintiff demands a jury trial, pursuant to Fed. R. Civ. P. 38(b), of all triable issues.

Dated: April 23, 2008

By: /s/ Douglas A. Millen

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MAY 12 2008

**BEFORE THE JUDICIAL PANEL  
ON MULTIDISTRICT LITIGATION**

IN RE: AFTERMARKET FILTERS  
ANTITRUST LITIGATION

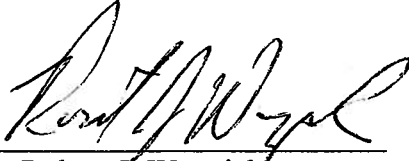
MDL DOCKET NO. 1957

**PROOF OF SERVICE**

I hereby certify that on this date, copies of the following documents were served on all parties listed on the attached Panel and Supplemental Service Lists via First Class U.S. Mail:

1. Notice of Related Action by Plaintiff Neptune Warehouse Distributors, Inc.
2. Notice of Appearance of Michael J. Freed on Behalf of Plaintiff Neptune Warehouse Distributors, Inc.
3. Plaintiff Neptune Warehouse Distributors, Inc.'s Joinder to Motion of Plaintiff Lovett Auto & Tractor Parts, Inc. for Transfer of Actions to the Northern District of Illinois Pursuant to 29 U.S.C. § 1407 for Coordinated or Consolidated Pretrial Proceedings.

Dated: May 7, 2008

  
Robert J. Wozniak

**Judicial Panel on Multidistrict Litigation - Panel Attorney Service List**

Page 1

Docket: 1957 - IN RE: Aftermarket Filters Antitrust Litigation

Status: Pending on / /

Transferee District: Judge:

Printed on 05/07/2008

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(Panel Attorney Service List for MDL 1,937 Continued)

Page 2

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MDL DOCKET NO. 1957**

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**SUPPLEMENTAL SERVICE LIST  
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***Manasek Auto Parts, Inc.***

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# **EXHIBIT 4**



**BEFORE THE JUDICIAL PANEL  
ON MULTIDISTRICT LITIGATION**

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**IN RE:**

**FILTERS ANTITRUST LITIGATION**

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**MDL Docket No. 1957**

**BIG T INC.'S AND MANASEK AUTO PARTS INC.'S  
JOINT MOTION FOR TRANSFER OF RELATED ANTITRUST ACTIONS  
TO THE SOUTHERN DISTRICT OF ILLINOIS PURSUANT TO 28 U.S.C. § 1407  
FOR COORDINATED OR CONSOLIDATED PROCEEDINGS**

Big T Inc., t/d/b/a A to Z Auto Parts ("Big T") and Manasek Auto Parts, Inc., d/b/a Undercar Warehouse ("Manasek"), hereby respectfully move the Judicial Panel on Multidistrict Litigation for an Order, pursuant to 28 U.S.C. § 1407, transferring all related actions to the United States District Court for the Southern District of Illinois for coordinated pretrial proceedings.<sup>1</sup> A list of pending related actions is on the Schedule of Actions, filed concurrently with this motion.

Big T and Manasek, in support of their joint motion for transfer and consolidation for coordinated pretrial proceedings, aver as follows:

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<sup>1</sup> Movants are the plaintiffs in *Big T Inc. v. Champion Laboratories, Inc. et al.*, Civil Action No. 08-331-DRH-CJP (filed on May 6, 2008 in the U.S. District Court for the Southern District of Illinois) and *Manasek Auto Parts Inc. v. Champion Laboratories, Inc. et al.*, Civil Action No. 08-0305-GPM-CJP (filed on April 23, 2008 in the U.S. District Court for the Southern District of Illinois).

1. The actions for which transfer and consolidation are proposed (the “related actions”) arise from a conspiracy by the leading manufacturers of auto filters to fix, raise, maintain, or stabilize prices for those products, in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1, and Section 4 of the Clayton Act, 15 U.S.C. § 15.

2. The related actions assert substantially similar allegations, and thus involve common questions of fact, including, *inter alia*, whether a conspiracy existed, who participated in the conspiracy, how the conspiracy was conducted, and what impact resulted from the conspiracy.

3. Coordination or consolidation and transfer of the actions will promote the just and efficient conduct of the actions by eliminating duplicative discovery, preventing inconsistent pretrial rulings and conserving the resources of the parties, their counsel and the judiciary.

4. Transfer of the actions to the Southern District of Illinois is warranted because:

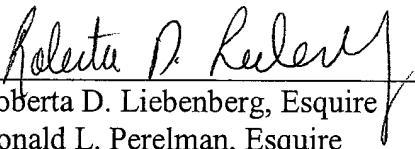
- a. The corporate headquarters of Champion Laboratories, Inc. (“Champion”) – a defendant with one of the largest market shares in the affected industry – is located in the Southern District of Illinois;
- b. There is pending litigation against Champion in the Southern District of Illinois in which a former employee has alleged that he was fired for refusing to go along with Champion’s price-fixing scheme and ***substantial discovery into these antitrust allegations is already underway***;
- c. Witnesses and documents relevant to the related actions are already being amassed in the Southern District of Illinois in connection with the ongoing pending litigation;
- d. The Southern District of Illinois has the resources and expertise to manage this complex multi-district litigation;
- e. Seven of the ten defendants in these actions are located in the Midwest, relatively proximate to the Southern District of Illinois; and
- f. The Southern District of Illinois (East St. Louis Division) is located proximately to a metropolitan center that is geographically convenient for all parties and potential witnesses.

Big T and Manasek make this motion based on the accompanying memorandum of law in support of their motion for transfer of related antitrust actions to the Southern District of Illinois and the pleadings and other papers on file.

DATED: May 12, 2008

Respectfully submitted,

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**BEFORE THE JUDICIAL PANEL  
ON MULTIDISTRICT LITIGATION**

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**IN RE:**

**FILTERS ANTITRUST LITIGATION**

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**MDL Docket No. 1957**

**MEMORANDUM OF LAW IN SUPPORT OF  
BIG T INC.'S AND MANASEK AUTO PARTS INC.'S JOINT MOTION  
FOR TRANSFER OF RELATED ANTITRUST ACTIONS TO THE SOUTHERN  
DISTRICT OF ILLINOIS PURSUANT TO 28 U.S.C. § 1407  
FOR COORDINATED OR CONSOLIDATED PROCEEDINGS**

Pursuant to Rule 7.2(a) of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, Big T Inc. t/d/b/a A to Z Auto Parts ("Big T") and Manasek Auto Parts, Inc., d/b/a Undercar Warehouse ("Manasek"), whose actions are pending in the Southern District of Illinois (East St. Louis Division),<sup>1</sup> respectfully submit this memorandum in support of their joint motion for transfer and consolidation pursuant to 28 U.S.C. § 1407 of all related antitrust actions to the Southern District of Illinois.

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<sup>1</sup> *Big T Inc. v. Champion Laboratories, Inc. et al.*, Civil Action No. 08-331-DRH-CJP (filed on May 6, 2008 in the U.S. District Court for the Southern District of Illinois and assigned to Chief Judge David R. Herndon); *Manasek Auto Parts Inc. v. Champion Laboratories, Inc. et al.*, Civil Action No. 08-0305-GPM-CJP (filed on April 23, 2008 in the U.S. District Court for the Southern District of Illinois and assigned to Judge G. Patrick Murphy).

## I. INTRODUCTION

At least fifteen similar antitrust class actions (collectively, the “related actions”) have been filed in at least four different federal district courts against auto filter manufacturers alleging a price-fixing conspiracy from at least 1999 to the present. See Schedule of Related Actions, filed concurrently with Big T’s and Manasek’s motion. As set forth below, Big T and Manasek respectfully submit that consolidation and coordination of all related cases will promote fairness, eliminate duplicate discovery, prevent inconsistent judicial rulings and conserve both judicial and party resources. Transfer to the Southern District of Illinois is warranted because:

- The corporate headquarters of Champion Laboratories, Inc. (“Champion”) – a defendant with one of the largest market shares in the affected industry – is located in the Southern District of Illinois;
- There is pending litigation against Champion in the Southern District of Illinois in which a former employee has alleged that he was fired for refusing to go along with Champion’s price-fixing scheme and *substantial discovery into these antitrust allegations is already underway*;
- Witnesses and documents relevant to the related actions are already being amassed in the Southern District of Illinois in connection with the ongoing pending litigation;
- The Southern District of Illinois has the resources and expertise to manage this complex multi-district litigation;
- Seven of the ten defendants in the related actions are located in the Midwest, relatively proximate to the Southern District of Illinois;
- The Southern District of Illinois (East St. Louis Division) is located near a metropolitan center (St. Louis, MO) that is geographically convenient for all parties and potential witnesses.

## II. BACKGROUND

The related actions arise from a cartel among the nation’s leading manufacturers of oil, air, fuel and transmission automotive filters (“filters”) to fix, raise, maintain, or stabilize prices for those products in the United States. To date, fifteen antitrust class action suits have been

filed in the federal courts: eight in Connecticut, four in Illinois (two in the Southern District and two in the Northern District), one in New Jersey, one in the Eastern District of Tennessee, and one in the Middle District of Tennessee.

Each of these suits alleges injuries arising from violation of Section 1 of the Sherman Act, 15 U.S.C. § 1, and Section 4 of the Clayton Act, 15 U.S.C. § 15, by Champion Laboratories, Inc.; Purolator Filters NA, LLC; Honeywell International Inc.; Wix Filtration Products; Cummins Filtration, Inc.; The Donaldson Company; Baldwin Filters, Inc.; Bosch USA; Mann + Hummel USA; and Arvinmeritor, Inc. (collectively, “Defendants”). Each of the related cases shares substantial overlapping factual questions regarding the existence of, participants in, and effect of the conspiracy on filter prices.

### III. ARGUMENT

Pursuant to 28 U.S.C. § 1407, transfer of these related actions for consolidated or coordinated pretrial proceedings is appropriate because (1) the related actions involve “one or more common questions of fact” and (2) doing so will “promote the just and efficient conduct” of this litigation. 28 U.S.C. § 1407(a). Indeed, counsel for plaintiffs in at least seven of the related actions have now submitted motions to this panel detailing the symmetry of the facts and claims at issue and the convenience and efficiency to be gained through consolidation.<sup>2</sup> The question is not *whether* to coordinate and consolidate, but *where*.

The Southern District of Illinois is the most appropriate transferee forum because: (1) it is the site of ongoing employment litigation involving numerous documents and witnesses that overlap with – and which in part prompted – the related actions; (2) it encompasses the

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<sup>2</sup> See the motions pursuant to 28 U.S.C. § 1407 of Lovett Auto & Tractor Parts, Inc. (MDL-1957 Pleading No. 1) (on behalf of one Northern District of Illinois plaintiff) and of S&E Quiklube Distributors, Inc. *et al.* (MDL-1957 Pleading No. 2) (on behalf of the four District of Connecticut plaintiffs).

headquarters of one of the main defendants, Champion, which has one of the largest market shares in the filter industry; (3) it has a favorable docket and Judge Murphy – to whom the first filed case in the district has been assigned – has the required skill and experience to manage this matter;<sup>3</sup> and (4) it is in a geographically convenient location that is readily accessible to all parties and potential witnesses.

#### **A. Consolidation Is Appropriate**

All of the plaintiffs in the related actions have presented similar legal claims on behalf of a similar proposed class concerning injuries sustained from the alleged price-fixing activities of the same defendants, during the same time frame, in the same market. In short, the existence of overlapping facts is plain. Moreover, substantial efficiencies – including the elimination of costly duplicative discovery and the risk of disruptive contradictory rulings – will accrue to the courts and the parties through coordination and consolidation of the related actions.

##### **1. The Related Actions Involve Common Questions of Fact**

Where, as here, “[a]ll actions share factual questions arising from substantially similar relationships and transactions” against similar defendants, transfer and consolidation are appropriate. *In re Reciprocal of America (ROA) Sales Practices Litig.*, 281 F. Supp. 2d 1356, 1357 (J.P.M.L. 2003). The cases now before this Panel contain numerous common questions of law and fact, including:

- (a) Whether Defendants and their co-conspirators engaged in a combination and conspiracy among themselves to fix, raise, maintain or stabilize prices of filters produced in either the United States and sold in the United States and its territories or for delivery in the United States and its territories;
- (b) The identity of the participants of the alleged conspiracy;

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<sup>3</sup> *Manasek* – the first filed case in the Southern District of Illinois – was (and is currently) assigned to Judge Murphy after Judge Herndon and Judge Stiehl disqualified themselves from this litigation. See *Manasek*, Doc. Nos. 3 & 6. Presumably, all subsequently filed and related cases in the Southern District of Illinois will be consolidated and assigned to Judge Murphy.



- (c) The duration of the alleged conspiracy and the acts carried out by Defendants and their co-conspirators in furtherance of the conspiracy;
- (d) Whether the alleged conspiracy violated Section 1 of the Sherman Act, 15 U.S.C. § 1;
- (e) Whether the conduct of Defendants and their co-conspirators, as alleged in this Complaint, caused injury to the business or property of the Plaintiff and the other members of the Class;
- (f) The effect of the alleged conspiracy on the prices of filters sold in the United States and its territories or for delivery in the United States and its territories during the Class Period;
- (g) Whether the Defendants and their co-conspirators fraudulently concealed the conspiracy's existence from Plaintiff and the other members of the Class; and
- (h) The appropriate class-wide measure of damages.

The Panel has repeatedly recognized that antitrust price-fixing cases involving common questions such as those identified above merit transfer and coordination. *See, e.g., In re Methyl Methacrylate (MMA) Antitrust Litig.*, 435 F. Supp. 2d 1345, 1346 (J.P.M.L. 2006) (centralization appropriate where common questions of fact existed in several actions alleging price-fixing conspiracy); *In re Ditropan XL Antitrust Litig.*, 429 F. Supp. 2d 1364, 1365-66 (J.P.M.L. 2006) (transfer and consolidation proper where several purchasers brought actions alleging anticompetitive conduct); *In re Intern. Air Transp. Surcharge Antitrust Litig.*, 460 F. Supp. 2d 1377, 1378 (J.P.M.L. 2006) (same). This case is no exception.

## **2. Transfer Will Promote Justice and Efficiency**

Coordination of pretrial proceedings in the related actions will promote the just and efficient conduct of these actions. In light of the overlapping factual allegations of a price-fixing conspiracy, and especially given that discovery has not yet begun in any of these actions, transfer under Section 1407 will advance the very purpose of the statute: to streamline the progress of cases by consolidating the efforts of counsel, parties and witnesses. A single court can then

“consider all parties’ legitimate discovery needs while ensuring that common parties and witnesses are not subjected to discovery demands which duplicate activity that has already occurred or is occurring in other actions.” *In re Pharmastem Therapeutics, Inc., Patent Litig.*, 360 F. Supp. 2d 1362, 1364 (J.P.M.L. 2005).

In addition, transfer and consolidation will eliminate the possibility of inconsistent rulings on pretrial determinations such as class certification. It is well settled that transfer is appropriate where the possibility of inconsistent rulings on class certification issues exists. *See, e.g., In re Southeastern Milk Antitrust Litig.*, 530 F. Supp. 2d 1359, 1360 (J.P.M.L. 2008) (noting that transfer would “prevent inconsistent pretrial rulings, especially with respect to class certification”); *In re Sterling Financial Corp. Securities Litig.*, 528 F. Supp. 2d 1353, 1354 (J.P.M.L. 2007) (same). The class actions filed in the present litigation overlap in numerous ways and the adjudication of these cases in different courts would create the strong possibility of conflicting rulings and a substantial waste of judicial resources.

#### **B. The Southern District of Illinois is the Proper Forum for Coordinated Pretrial Proceedings**

In determining the proper forum for consolidated or coordinated pretrial proceedings the Panel examines, among other factors: the parties’ nexus with the transferee forum; the caseloads of the proposed transferor and transferee courts; the expertise of a particular court in the areas of law and procedure governing the litigation; and the geographical convenience of the transferee court. *See In re Publication Paper Antitrust Litig.*, 346 F. Supp. 2d 1370, 1372 (J.P.M.L. 2004) (considering nexus between parties and transferee forum); *In re Pressure Sensitive Labelstock Antitrust Litig.*, 290 F. Supp. 2d 1374, 1376 (J.P.M.L. 2003) (transferring litigation after considering caseload and experience of transferee court); *In re Ameriquest Mortg. Co. Mortg. Lending Practices Litig.*, 408 F. Supp. 2d 1354, 1355 (J.P.M.L. 2005) (taking geographical

convenience of transferee forum into account). Here, these factors support transfer to the Southern District of Illinois.

**1. No District Has a Stronger Nexus to the Related Actions Than the Southern District of Illinois**

The Panel regularly considers the nexus between the transferee forum and the litigants when resolving competing requests for transfer under 28 U.S.C. § 1407. When multiple districts establish a nexus, the panel favors “the suggested transferee district which has the strongest nexus to [the] litigation among the districts with actions pending.” *In re Reciprocal of America*, 281 F. Supp. 2d at 1358. In this instance, no district has stronger ties to the related actions than does the Southern District of Illinois.

**a. Pending Litigation in the Southern District of Illinois Is Directly Related and Will Allow Substantial Efficiency Gains for All Parties**

Antitrust discovery that overlaps with the related actions is *already underway* in non-class litigation pending in the Southern District of Illinois. This factor alone justifies consolidation and coordination in the Southern District of Illinois. In *Champion Laboratories, Inc. v. Burch*, Case No. 4:06-cv-04031-JPG-PMF (S.D. Ill.) (“*Burch*”), William G. Burch has alleged that Champion wrongfully terminated him from his employment for refusing to participate in, and for subsequently reporting to the Federal Bureau of Investigation, the alleged price-fixing activities at issue in the related actions now before the Panel. Recently, the Southern District of Illinois denied Champion’s request for a protective order seeking to preclude Burch’s extensive discovery requests into the alleged antitrust violations of Champion. *Burch*, Doc. No. 81 (April 1, 2008). Notably, the Court has also allowed Burch discovery not only from Champion, but also from Champion’s co-conspirators – in other words, filter manufacturers that are Defendants in the related actions. *Id.* Thus, *extensive discovery into the price-fixing*

*activities of multiple defendants in the related actions is currently underway in the Southern District of Illinois.*<sup>4</sup>

As has already been noted by Lovett Auto & Tractor Parts, Inc. – a plaintiff in a related action pending in the Northern District of Illinois but seeking a different venue – “[g]iven the commonalities between the antitrust allegations in [*Burch* and the related actions], there are clear efficiencies” to be had by coordination and consolidation in a location proximate to *Burch*, including “access to parties and witnesses, as well as consolidated document production.” MDL-1957 Pleading No. 1 at 13. Lovett, however, mistakenly concludes that consolidation in the Northern as opposed to Southern District of Illinois is preferable. *Id.* Lovett reached this conclusion because the Benton Division of the Southern District (where *Burch* is pending) lacks a commercial airport. *Id.* at 9 n.3. This is not true of the East St. Louis Division of the Southern District, which is where this motion proposes to transfer the related actions.<sup>5</sup> And there is no good reason to choose a more remote venue (*i.e.*, the Northern District) when a forum in the same venue as *Burch* (*i.e.*, the East St. Louis Division of the Southern District) provides all the same advantages and then some. As conceded by Lovett, each of the related actions is “premised, in part, upon sworn testimony by Mr. Burch in the *Southern District of Illinois* action.” *Id.* at 13 (emphasis added). Accordingly, coordination of the related actions in the same district where massive overlapping discovery is already underway is the most sensible and efficient option. *See, e.g., In re RadioShack “ERISA” Litig.*, 528 F. Supp. 2d 1348, 1349

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<sup>4</sup> The Southern District of Illinois rejected Champion’s efforts to preclude *Burch* from, among other things, seeking “All documents relating to [Champion]’s pricing of automotive filters,” serving more than a dozen subpoenas on Champion customers and other filter manufacturers, and taking the depositions of fifteen Champion employees. *See generally Burch*, Doc. No. 77.

<sup>5</sup> The courthouse in the East St. Louis Division of the Southern District is approximately 16 miles from Lambert International Airport in St. Louis, MO.

(J.P.M.L. 2007) (transfer to Northern District of Texas where defendant was headquartered because it was likely documents and witnesses would be found there).

**b. Champion Laboratories, Inc. Is Located in the Southern District of Illinois**

The fact that Champion – one of the largest manufacturers of auto filters in the United States – is located in Albion, IL militates strongly in favor of transferring the related cases to the Southern District of Illinois. As the Panel has often recognized, a “significant nexus” exists when a primary defendant’s headquarters or facilities are located within the transferee court’s jurisdiction because “many relevant documents and witnesses are likely to be found” there. *In re Delphi Corp. Securities, Derivative and "Erisa" Litig.*, 403 F. Supp. 2d 1358, 1360 (J.P.M.L. 2005). The Panel has routinely transferred multidistrict litigation to a particular district where a common defendant’s headquarters was located. *See, e.g., In re Chocolate Confectionary Antitrust Litig.*, 2008 WL 926121, \*1 (J.P.M.L. April 7, 2008) (transferring actions to Middle District of Pennsylvania “[b]ecause defendant Hershey’s worldwide headquarters are located there”); *In re LTL Shipping Services Antitrust Litig.*, 528 F. Supp. 2d 1378, 1380 (J.P.M.L. 2007) (“Because several of the defendants have their headquarters in or near that district, relevant documents and witnesses are likely located in that area.”); *In re Guidant Corp. Implantable Defibrillators Products Liability Litig.*, 398 F. Supp. 2d 1371, 1372 (J.P.M.L. 2005); *In re Hydrogen Peroxide Antitrust Litig.*, 374 F. Supp. 2d 1345, 1346 (J.P.M.L. 2005); *In re European Rail Pass Antitrust Litig.*, MDL No. 1386, 2001 WL 587855, at \*1 (J.P.M.L. Feb. 7, 2001) (favoring transfer to forum “in which the largest common defendant is headquartered, and, accordingly, witnesses and documents should be found”). Indeed, Champion has already argued that the Southern District of Illinois is the appropriate forum to litigate the issues raised in *Burch*, including the federal antitrust issues; in a forum dispute at the outset of *Burch*, Champion

successfully argued that litigation in the Southern District of Illinois “would substantially promote the interests of convenience and justice.” *Burch*, Doc. No. 14-3 at 13.<sup>6</sup> The same is true of the related actions now pending before the Panel.

In addition to the presence of Champion’s headquarters within the Southern District of Illinois, the fact that other defendants also have a presence in or near the district further supports transfer to the Southern District of Illinois. *See In re Chocolate*, 2008 WL 926121, at \*1 (choosing district where “several of the defendants maintain a presence in or near that district). As discussed in more detail below, a majority of Defendants are located in the Midwest relatively close to the Southern District of Illinois. And, more importantly, a number of Defendants have already been drawn into the *Burch* litigation that is currently pending in the Southern District of Illinois.

## 2. The Southern District of Illinois Has the Experience and Resources Necessary to Manage the Related Actions

The Southern District of Illinois is well suited to undertake adjudication of the related actions. It has the resources and the expertise to advance this litigation expeditiously. In comparison to the Northern District of Illinois and the District of Connecticut – both of which have been proposed as competing transferee districts – the Southern District of Illinois has fewest MDL cases assigned to it: only 2, versus 17 in the Northern District of Illinois and 7 in the District of Connecticut. *See Distribution of Pending MDL Dockets* (as of March 10, 2008). *See generally In re National Century Financial Enterprises, Inc.*, 293 F. Supp. 2d 1375, 1377 (J.P.M.L. 2003) (determining that district “not currently occupied with multiple other MDL

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<sup>6</sup> On January 19, 2006, Burch filed a complaint in Oklahoma state court alleging, *inter alia*, wrongful termination by Champion. Shortly thereafter, Champion filed suit against Burch in the Southern District of Illinois alleging, *inter alia*, embezzlement. Champion removed the Oklahoma state action to federal court, and a forum dispute ensued. The federal court determined that the Southern District of Illinois was the appropriate forum to litigate the parties’ disputes.

assignments, that is equipped with the resources that this complex docket is likely to require” was appropriate transferee forum); *In re Farmers Insurance Co., Inc., Insurance Premiums Litig.*, 295 F. Supp. 2d 1375, 1377 (J.P.M.L. 2003) (determining that the transferee forum was appropriate since no multidistrict litigation docket was assigned to it at the time). Moreover, Judge Murphy – before whom the cases in the Southern District of Illinois seem likely to be consolidated – is a very experienced and capable judge who has successfully handled (and is handling) multidistrict litigation. *E.g., In re General Motors Corp. Dex-Cool Products Liability Litig.* (MDL No. 1562); *In re Profiler Products Liability Litig.* (MDL No. 1748).

**3. The Southern District of Illinois Is in a Geographically Convenient Location That Is Readily Accessible to All Parties and Potential Witnesses**

The Southern District of Illinois is an appropriate forum for consolidated proceedings because it is conveniently located and readily accessible for the parties and potential witnesses. As noted above, Champion is headquartered in the Southern District of Illinois. In addition to Champion, six other Defendants are located in the Midwest. Moreover, substantial overlapping discovery in *Burch* involving multiple Defendants is already underway in the Southern District of Illinois. Thus, witnesses and documents – not merely for Champion, but for numerous Defendants – are already the subject of litigation in the Southern District of Illinois.

The Southern District of Illinois is a centrally located and accessible venue. With seven of the ten Defendants located in the Midwest, the Southern District of Illinois is a relatively convenient location for most parties. By way of comparison, the District of Connecticut is, on average, nearly twice as far from the headquarters of the Defendants in the related actions. The Southern District of Illinois is within the metropolitan area of St. Louis, Missouri, which enhances the convenience of the venue. The Southern District of Illinois, East St. Louis Division is only three miles from downtown St. Louis and 16 miles from Lambert International Airport

(which is closer in proximity to a major airport than either the District of Connecticut or the Northern District of Illinois).<sup>7</sup>

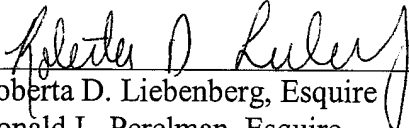
#### IV. CONCLUSION

Based on an analysis of the factors relevant to the Panel's determination and given the facts presented here, the Southern District of Illinois is the most appropriate forum for the coordination or consolidation of this litigation.

DATED: May 12, 2008

Respectfully submitted,

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<sup>7</sup> Lambert International Airport offers direct service to locations throughout the United States, including most of the locations from which Defendants and their counsel are located. For example, a search for non-stop flights to St. Louis departing May 22, 2008 produced the following number of options from each of the following cities: Chicago, 33; Washington, DC 23; New York City, 19; Atlanta, 19; Denver, 14; Minneapolis, 14; Philadelphia, 10; Dallas, 10; Charlotte, 10; Los Angeles, 9; Detroit, 8; Nashville, 5; Raleigh-Durham, 3; Omaha, 3; and Hartford, 3.



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**BEFORE THE JUDICIAL PANEL  
ON MULTIDISTRICT LITIGATION**

**IN RE:**

**FILTERS ANTITRUST LITIGATION**

:

**MDL Docket No. 1957**

:

**SCHEDULE OF RELATED ACTIONS**

<b>PLAINTIFFS</b>	<b>DEFENDANTS</b>	<b>JURISDICTION</b>	<b>CASE NO.</b>	<b>JUDGE</b>
S&E QUICK LUBE DISTRIBUTORS, INC.	CHAMPION LABORATORIES, INC., PUROLATOR FILTERS N.A. I.L.C., HONEYWELL INTERNATIONAL INC., WIX FILTRATION PRODUCTS, CUMMINS FILTRATION INC., THE DONALDSON CO., BALDWIN FILTERS INC., BOSCH U.S.A., MANN + HUMMEL U.S.A., INC., ARVINMERITOR, INC., and UNITED COMPONENTS, INC.	District of Connecticut	3:08-cv-475	Hon. Janet Bond Arterton
FLASH SALES, INC.	CHAMPION LABORATORIES, INC., PUROLATOR FILTERS N.A. I.L.C., HONEYWELL INTERNATIONAL INC., WIX FILTRATION PRODUCTS, CUMMINS FILTRATION INC., THE DONALDSON CO., BALDWIN FILTERS INC., BOSCH U.S.A., MANN + HUMMEL U.S.A., INC., ARVINMERITOR, INC., and UNITED COMPONENTS, INC.	District of Connecticut	3:08-cv-00512	Hon. Christopher F. Droney

PLAINTIFFS	DEFENDANTS	JURISDICTION	CASE NO.	JUDGE
WILLIAM C. BRUENE, d/b/a LONE STAR LUBE	CHAMPION LABORATORIES, INC., PUROLATOR FILTERS N.A. L.L.C., HONEYWELL INTERNATIONAL INC., WIX FILTRATION PRODUCTS, CUMMINS FILTRATION INC., THE DONALDSON CO., BALDWIN FILTERS INC., BOSCH U.S.A., MANN + HUMMEL U.S.A., INC., ARVINMERITOR, INC., and UNITED COMPONENTS, INC.	District of Connecticut	3:08cv-00522	Hon. Stefan R. Underhill
TTS COMPANY d/b/a TWI AUTO PARTS & SUPPLIES	CHAMPION LABORATORIES, INC., PUROLATOR FILTERS N.A. L.L.C., HONEYWELL INTERNATIONAL INC., WIX FILTRATION PRODUCTS, CUMMINS FILTRATION INC., THE DONALDSON CO., BALDWIN FILTERS INC., BOSCH U.S.A., MANN + HUMMEL U.S.A., INC., ARVINMERITOR, INC., and UNITED COMPONENTS, INC.	District of Connecticut	3:08-cv-00528	Hon. Mark R. Kravitz
BARJAN, LLC	CHAMPION LABORATORIES, INC., PUROLATOR FILTERS N.A. L.L.C., HONEYWELL INTERNATIONAL INC., WIX FILTRATION PRODUCTS, CUMMINS FILTRATION INC., THE DONALDSON CO., BALDWIN FILTERS INC., BOSCH U.S.A., MANN + HUMMEL U.S.A., INC., ARVINMERITOR, INC., and UNITED COMPONENTS, INC.	District of Connecticut	3:08-cv-00534	Hon. Janet Bond Arterton
PACKARD AUTOMOTIVE, INC.	HONEYWELL INTERNATIONAL INC., CHAMPION LABORATORIES, INC., PUROLATOR FILTERS NA LLC, WIX FILTRATION PRODUCTIONS, CUMMINS FILTRATION INC., THE DONALDSON COMPANY, BALDWIN FILTERS INC., BOSCH USA, MANN+HUMMEL USA INC., ARVINMERITOR INC. and UNITED COMPONENTS, INC.	District of Connecticut	3:08-cv-00600	Hon. Peter C. Dorsey

PLAINTIFFS	DEFENDANTS	JURISDICTION	CASE NO.	JUDGE
THE PARTS PLUS GROUP, INC.	CHAMPION LABORATORIES, INC., PUROLATOR FILTERS N.A. LLC, HONEYWELL INTERNATIONAL, INC., WIX FILTRATION PRODUCTS, CUMMINS FILTRATION INC., THE DONALDSON COMPANY, BALDWIN FILTERS, INC., BOSCH U.S.A., MANN+HUMMEL USA, INC., ARVINMERITOR, INC. and UNITED COMPONENTS, INC.	District of Connecticut	3:08-cv-00637	Hon. Vanessa L. Bryant
WARD'S AUTO PAINTING & BODY WORKS, INC., on behalf of itself and all others similarly situated	CHAMPION LABORATORIES, INC., PUROLATOR FILTERS N.A. LLC, HONEYWELL INTERNATIONAL, INC., WIX FILTRATION PRODUCTS, CUMMINS FILTRATION INC., THE DONALDSON COMPANY, BALDWIN FILTERS, INC., BOSCH U.S.A., MANN+HUMMEL USA, INC., ARVINMERITOR, INC. and UNITED COMPONENTS, INC.	District of Connecticut	3:08-cv-00660	Hon. Mark R. Kravitz
LOVETT AUTO & TRACTOR PARTS, INC.	CHAMPION LABORATORIES, INC., PUROLATOR FILTERS N.A. L.L.C., HONEYWELL INTERNATIONAL INC., WIX FILTRATION PRODUCTS, CUMMINS FILTRATION INC., THE DONALDSON CO., BALDWIN FILTERS Inc., BOSCH U.S.A., MANN + HUMMEL U.S.A., INC., and ARVINMERITOR, INC.	Northern District of Illinois	1:08-cv-02046	Hon. Robert W. Gettleman
NEPTUNE WAREHOUSE DISTRIBUTORS, INC.	CHAMPION LABORATORIES, INC., PUROLATOR FILTERS N.A. L.L.C., HONEYWELL INTERNATIONAL INC., WIX FILTRATION CORP., CUMMINS FILTRATION INC., THE DONALDSON CO., BALDWIN FILTERS INC., BOSCH U.S.A., MANN + HUMMEL U.S.A., INC., and ARVINMERITOR, INC.	Northern District of Illinois	1:08-cv-02317	Hon. Rebecca R. Pallmeyer

PLAINTIFFS	DEFENDANTS	JURISDICTION	CASE NO.	JUDGE
MONASTICS AUTO PARTS, INC. D/B/A UNDERCAR WAREHOUSE	CHAMPION LABORATORIES, INC., PUROLATOR FILTERS N.A., LLC, HONEYWELL INTERNATIONAL INC., WIX FILTRATION PRODUCTS, CUMMINS FILTRATION, INC., THE DONALDSON COMPANY, BALDWIN FILTERS, INC., BOSCH U.S.A., MANN+HUMMEL USA, INC. and ARVINMERITOR, INC.	Southern District of Illinois	3:08-cv-00305	Hon. G. Patrick Murphy
BIG T INC., t/d/b/a A TO Z AUTO PARTS	CHAMPION LABORATORIES, INC., PUROLATOR FILTERS N.A. LLC, HONEYWELL INTERNATIONAL, INC., WIX FILTRATION PRODUCTS, CUMMINS FILTRATION INC., THE DONALDSON COMPANY, BALDWIN FILTERS, INC., BOSCH U.S.A., MANN+HUMMEL USA, INC. and ARVINMERITOR, INC.	Southern District of Illinois	3:08-cv-00331	Hon. David R. Herndon
CENTRAL WAREHOUSE SALES CORPORATION	CHAMPION LABORATORIES, INC., PUROLATOR FILTERS N.A. LLC, HONEYWELL INTERNATIONAL, INC., WIX FILTRATION PRODUCTS, CUMMINS FILTRATION INC., THE DONALDSON COMPANY, BALDWIN FILTERS, INC., BOSCH U.S.A., MANN+HUMMEL USA, INC., ARVINMERITOR, INC., UNITED COMPONENTS, INC. and THE CARLYLE GROUP	District of New Jersey	2:08-cv-02123	Hon. Katharine S. Hayden
RANDALL BETHEA and JAMES PADGETT	CHAMPION LABORATORIES, INC., PUROLATOR FILTERS N.A. LLC, HONEYWELL INTERNATIONAL, INC., WIX FILTRATION CORPORATION, CUMMINS FILTRATION INC., THE DONALDSON COMPANY, BALDWIN FILTERS, INC., BOSCH U.S.A., MANN+HUMMEL USA, INC., ARVINMERITOR, INC. and JOHN DOE 1-100	Eastern District of Tennessee	2:08-cv-00126	Hon. J. Ronnie Greer

PLAINTIFF	DEFENDANTS	JURISDICTION	CASE NO.	JUDGE
<p>WERNER AERO SERVICES</p>	<p>CHAMPION LABORATORIES, INC., PUROLATOR FILTERS N.A. I.L.C., HONEYWELL INTERNATIONAL INC., WIX FILTRATION PRODUCTS, CUMMINS FILTRATION INC., THE DONALDSON CO., BALDWIN FILTERS INC., BOSCH U.S.A., MANN + HUMMEL U.S.A., INC., ARVINMERITOR, INC., and UNITED COMPONENTS, INC.</p>	<p>Middle District of Tennessee</p>	<p>3:08-cv-00474</p>	<p>Hon. Robert Echols</p>

**BEFORE THE JUDICIAL PANEL  
ON MULTIDISTRICT LITIGATION**

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**IN RE:**

**FILTERS ANTITRUST LITIGATION**

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**MDL Docket No. 1957**

**CERTIFICATE OF SERVICE**

I hereby certify that on this 12<sup>th</sup> day of May, 2008, I caused to be served a copy of

(1) Big T Inc.'s and Manasek Auto Parts Inc.'s Joint Motion for Transfer of Related Antitrust Actions to the Southern District of Illinois Pursuant to 28 U.S.C. § 1407 for Coordinated or Consolidated Proceedings, (2) Memorandum in Support thereof, (3) Big T Inc.'s Corporate Disclosure Statement, and (4) Manasek Auto Parts Inc.'s Corporate Disclosure Statement, by First Class Mail on all counsel listed on the attached Panel Attorney Service List. I also caused to be served the Clerks of each District Court in which an action is pending, as well as the additional parties listed below:

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Docket: 1957 - IN RE: Aftermarket Filters Antitrust Litigation

Status: Pending on / /

Transferee District: Judge:

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# **EXHIBIT 5**

**BEFORE THE JUDICIAL PANEL  
ON MULTIDISTRICT LITIGATION**

**IN RE: AFTERMARKET FILTERS  
ANTITRUST LITIGATION**

MDL DOCKET NO. 1957

**JOINT MEMORANDUM OF LAW OF PLAINTIFFS  
WORLDWIDE EQUIPMENT, INC. AND CENTRAL WAREHOUSE  
SALES CORPORATION IN SUPPORT OF THEIR MOTION PURSUANT TO  
28 U.S.C. § 1407 FOR TRANSFER OF ACTIONS TO THE DISTRICT OF  
NEW JERSEY FOR CENTRALIZED PRETRIAL PROCEEDINGS**

Pursuant to 28 U.S.C. § 1407, Plaintiffs Worldwide Equipment, Inc.

(“Worldwide”) and Central Warehouse Sales Corporation (“Central Warehouse”) (collectively “Plaintiffs”)<sup>1</sup> respectfully move for transfer of all related antitrust actions alleging anticompetitive conduct in the aftermarket filters industry (collectively the “Related Actions”)<sup>2</sup> to the United States District Court for the District of New Jersey for centralized pretrial proceedings. The District of New Jersey is the most appropriate forum for transfer and centralization of the Related Actions in the aftermarket filters industry because it offers the best combination of accessibility, expertise and efficiency of all proposed transferee districts. For this reason, and others set forth below, transfer to and centralization in the District of New Jersey<sup>3</sup> will most effectively promote the just and efficient conduct of these Actions.

<sup>1</sup> Plaintiffs' actions are styled, respectively: (1) *Worldwide Equipment, Inc. v. Honeywell International, Inc., Champion Laboratories, Inc., Purolator Filters N.A. L.L.C., Wix Filtration Corp. LLC, Cummins Filtration, Inc., Donaldson Company, Inc., Baldwin Filters, Inc., Robert Bosch LLC, Mann+Hummell U.S.A., Inc., ArvinMeritor, Inc., and United Components, Inc.*, No. 08-2303 (D.N.J.); and (2) *Central Warehouse Sales Corp. v. Champion Laboratories, Inc., Purolator Filters N.A. L.L.C., Honeywell International, Inc., Wix Filtration Corp. LLC, Cummins Filtration, Inc., The Donaldson Company, Inc., Baldwin Filters, Inc., Bosch USA, Mann+Hummell U.S.A., Inc., ArvinMeritor, Inc., United Components, Inc., and the Carlyle Group*, No. 08-2123 (D.N.J.).

<sup>2</sup> A schedule of Related Actions is attached to Plaintiffs' Motion, filed herewith.

<sup>3</sup> There are currently three Related Actions pending in the District of New Jersey.

**I. FACTUAL BACKGROUND**

**A. The Basis of the Litigation**

Oil, fuel, air and transmission filters are found in nearly every motor vehicle that is sold or operated in the United States. These filters trap particulate contaminants such as dirt and rust, and ensure that these substances do not enter the vehicles' systems. At various points in their service lives, vehicles must have their original filters replaced with aftermarket filters ("Aftermarket Filters").

One of the largest manufacturers and sellers of Aftermarket Filters in the United States is Champion Laboratories, Inc. ("Champion"). On January 19, 2006, William G. Burch, a former Division Sales Manager for Champion, filed a wrongful termination suit against Champion that was ultimately consolidated with a suit filed against Burch by Champion in the Southern District of Illinois. *See Champion Labs., Inc. v. William G. Burch*, No. 06-4031 (S.D. Ill.) ("*Champion/Burch* Litigation"). In an affidavit submitted in the *Champion/Burch* Litigation, Burch accused Champion of being "involved in activities with Champion's competitors that constitute price-fixing." *See* Response in Opposition to Motion for Protective Order (Docket No. 78) at ¶¶ 5-7. *See also* Docket No. 79, Sealed Document (referenced in Burch's affidavit as containing details of price-fixing activities). Burch also stated in his affidavit that he met with the FBI on January 13, 2006 and then provided the FBI on January 18, 2006 with his computer and evidence of Champion's price-fixing activities. *See id.* at ¶ 17.

**B. The Related Actions and Proposed Transferee Districts**

Since March 31, 2008, 25 Related Actions have been filed in six different districts: District of New Jersey, District of Connecticut, Northern District of Illinois,

Southern District of Illinois, Eastern District of Tennessee, and Middle District of Tennessee. All of the Related Actions allege a conspiracy entered into by the largest manufacturers of Aftermarket Filters in the United States to fix, raise, maintain or stabilize prices and to allocate markets and customers in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.

To date, certain plaintiffs who filed actions in the District of Connecticut ("Connecticut Plaintiffs"), the Southern District of Illinois ("Southern District of Illinois Plaintiffs"), and the Northern District of Illinois ("Northern District of Illinois Plaintiff"), have filed motions with the Panel for transfer and consolidation of the Related Actions in those districts, respectively.<sup>4</sup> Thus, the proposed transferee districts for the Aftermarket Filters litigation are the District of Connecticut, the Southern District of Illinois, the Northern District of Illinois and, by this motion, the District of New Jersey.

## II. ARGUMENT

28 U.S.C. § 1407 authorizes the centralization of civil actions pending in different federal district courts involving common questions of fact in a single federal district court for coordinated or consolidated pretrial proceedings:<sup>5</sup>

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<sup>4</sup> See Motion of Plaintiffs S&E Quick Lube Distributors, Inc., Flash Sales, Inc., William C. Bruene D/B/A Lone Star Lube, T.D.S. Company D/B/A TWI Auto Parts & Supplies and Barjan, LLC in Support of the Transfer and Consolidation of Related Antitrust Actions in the District of Connecticut for Pretrial Proceedings ("Connecticut Plaintiffs' Motion"); Motion of Plaintiffs Big T, Inc. and Manasek Auto Parts Inc. for Transfer of Related Antitrust Actions to the Southern District of Illinois pursuant to 28 U.S.C. § 1407 for Coordinated or Consolidated Proceedings ("Southern District of Illinois Plaintiffs' Motion"); Motion of Plaintiff Lovett Auto & Tractor Parts, Inc. for Transfer of Actions to the Northern District of Illinois Pursuant to 28 U.S.C. § 1407 for Coordinated or Consolidated Pretrial Proceedings ("Northern District of Illinois Plaintiff's Motion").

<sup>5</sup> The degree and manner of any coordination or consolidation of transferred proceedings is within the sole discretion of the transferee court. See, e.g., *In re General Motors Corp. Secs. & Derivative Litig.*, 429 F. Supp. 2d 1368, 1370 (J.P.M.L. 2006); *In re Delphi Corp. Secs., Derivative & "ERISA" Litig.*, 403 F. Supp. 2d 1358, 1360 (2005).

When civil actions involving one or more common questions of fact are pending in different districts, such actions may be transferred to any district for coordinated or consolidated pretrial proceedings. Such transfers shall be made by the judicial panel on multidistrict litigation authorized by this section upon its determination that transfers for such proceedings will be for the convenience of parties and witnesses and will promote the just and efficient conduct of such actions.

28 U.S.C. § 1407. For the reasons set forth below, centralization of the 25

Related Actions in the District of New Jersey is appropriate.

A. **Centralization Is Appropriate Because The Related Actions Involve Common Questions Of Fact And Because Centralization Will Promote The Just And Efficient Conduct Of The Related Actions As Well As Further The Convenience Of The Parties And The Witnesses**

The requirements for centralization of the Related Actions pursuant to Section 1407 are satisfied here. The Related Actions are characterized almost entirely by common questions of fact. Centralization will promote the just and efficient conduct of the Related Actions, will further the convenience of the parties and the witnesses, and will eliminate duplicative discovery and the potential for inconsistent rulings.

1. **The Related Actions Involve Common Questions Of Fact**

Common questions of fact exist where two or more complaints assert comparable allegations against similar defendants based on similar transactions and events. *See, e.g., In re Unum Provident Corp. Secs., Derivative & "ERISA" Litig.*, 280 F. Supp. 2d 1377, 1379 (J.P.M.L. 2003) (centralization appropriate where "all actions [could] be expected to focus on a significant number of common events, defendants, and/or witnesses" and "core factual allegations" were consistent among the actions); *In re Japanese Elec. Prods. Antitrust Litig.*, 388 F. Supp. 565, 567 (J.P.M.L. 1975) ("[t]ransfer under § 1407 is



not dependent on strict identity of issues and parties but rather on the existence of one or more common questions of fact”).

Among the numerous common questions of fact (and law) at issue in the Related Actions are:

- Whether Defendants conspired, contracted or combined for the purpose of and with the effect of instituting, raising, fixing, maintaining, or stabilizing the price of Aftermarket Filters sold in the United States that were purchased by the Class;
- The identity of the participants in the conspiracy, contract or combination;
- The duration of the conspiracy, contract or combination;
- The nature and character of the acts performed by Defendants and their co-conspirators in furtherance of the conspiracy, contract or combination;
- Whether Defendants undertook actions to conceal the unlawful conspiracy, contract or combination described herein;
- Whether the conduct of Defendants and their co-conspirators violated the relevant federal antitrust laws and caused injury to the business and property of Plaintiff and the Class; and
- The proper measure of damages.

The facts to be determined in each of the Related Actions are nearly identical, making centralization pursuant to Section 1407 highly appropriate. *See, e.g., In re Foundry Resins Antitrust Litig.*, 342 F. Supp. 2d 1346, 1347 (J.P.M.L. 2004) (“[t]hese actions share allegations concerning whether defendants participated in a combination or conspiracy to fix, raise, maintain, or stabilize the price of foundry resins.”); *In re Publication Paper Antitrust Litig.*, 346 F. Supp. 2d 1370, 1372 (J.P.M.L. 2004) (“[t]he actions share allegations that the defendants and their co-conspirators engaged in a continuing contract, combination or conspiracy in restraint of trade to artificially raise,

fix, maintain or stabilize prices for publication paper in violation of federal antitrust laws.”); *In re Automotive Refinishing Paint Antitrust Litig.*, 177 F. Supp. 2d 1378, 1379 (J.P.M.L. 2001) (“[t]hese actions share allegations concerning whether defendants participated in a combination or conspiracy to fix, raise, maintain, or stabilize the price of automotive refinishing paint products.”)

2. **Centralization Will Promote The Just And Efficient Conduct Of The Related Actions As Well As Further The Convenience Of The Parties And The Witnesses**

Centralization will promote the just and efficient conduct of the Related Actions, as well as further the convenience of the parties and the witnesses, by (a) eliminating duplicative discovery and (b) avoiding inconsistent pretrial rulings. *See* 28 U.S.C. § 1407(a); *see also*, *In re Am. Family Mut. Ins. Co. Overtime Pay Litig.*, 416 F. Supp. 2d 1346, 1347 (J.P.M.L. 2006) (centralization “necessary in order to eliminate duplicative discovery, prevent inconsistent pretrial rulings, particularly with respect to class certification; and conserve the resources of the parties, their counsel and the judiciary”); *In re Dynamic Random Access Memory (DRAM) Antitrust Litig.*, 228 F. Supp. 2d 1379 (J.P.M.L. 2002) (centralization necessary “in order to eliminate duplicative discovery, prevent inconsistent pretrial rulings (especially with respect to class certification matters), and conserve the resources of the parties, their counsel and the judiciary”).

Failing to consolidate the Related Actions will result in duplicative discovery efforts requiring, *inter alia*,

- Witnesses to appear for multiple depositions;
- Production of several sets of the same documents by Defendants; and

- Third parties to respond to multiple subpoenas from Plaintiffs *and* Defendants.

In light of the overlapping factual allegations of a price-fixing conspiracy and, especially, given that discovery has not yet begun in any of these actions, centralization under § 1407 will avoid duplicative discovery and result in a substantial savings of time and resources. *See In re Am. Family Mut. Ins. Co. Overtime Pay Litig.*, 416 F. Supp. 2d at 1347; *In re Dynamic Random Access Memory (DRAM) Antitrust Litig.*, 228 F. Supp. 2d at 1379.

Centralization will also eliminate the possibility of inconsistent rulings on pretrial determinations such as class certification. Where the possibility of inconsistent rulings on class certification issues exists, it is well-settled that centralization is the appropriate course of action. *See, e.g., In re Commercial Money Center, Inc., Equip. Lease Litig.*, 229 F. Supp. 2d 1379, 1380 (J.P.M.L. 2002) (finding that consolidation of 23 actions filed nationwide would prevent inconsistent rulings); *In re Sugar Indus. Antitrust Litig.*, 395 F. Supp. 1271, 1273 (J.P.M.L. 1975) (noting that the Panel has “consistently held that transfer of actions under Section 1407 is appropriate, if not necessary, where the possibility of inconsistent class determinations exists”).

Where, as here centralization will avoid duplicative discovery and inconsistent pretrial rulings, centralization for coordinated or consolidated pretrial proceedings is warranted to promote the interests of judicial economy and efficiency and to further the convenience of the parties and the witnesses.

**B. The District of New Jersey is the Most Appropriate Transferee Forum**

Based on Panel jurisprudence, a number of the proposed transferee forums can make legitimate claims as appropriate venues for this multidistrict litigation. However,

Careful analysis of the key factors of accessibility, judicial expertise and efficiency make it clear that the District of New Jersey is the *most* appropriate transferee forum.

1. **The District of New Jersey Is the Most Accessible Forum to Parties and Witnesses**

A proposed transferee forum's accessibility to parties and witnesses is a factor that the Panel has given significant weight in choosing transferee forums. *See, e.g., In re Hypodermic Products Antitrust Litig.*, 408 F. Supp. 2d 1356, 1357 (J.P.M.L. 2005) (transferring actions to District of New Jersey because district was "an accessible location"); *In re Ins. Brokerage Antitrust Litig.*, 360 F. Supp. 2d 1371, 1373 (J.P.M.L. 2005) (finding that District of New Jersey was an "accessible metropolitan location" and transferring actions to that district). *See also, e.g., In re Trasylol Products Liab. Litig.*, MDL No. 1928, 2008 U.S. Dist. Lexis 28719, \*3 (J.P.M.L. Apr. 7, 2008) (selecting transferee district based, in part, on its "accessible metropolitan location"); *In re Mirapex Products Liab. Litig.*, 493 F. Supp. 2d 1376, 1377 (J.P.M.L. 2007) (choosing transferee forum, in part, because it was "easily accessible"). The District of New Jersey is the most accessible of the proposed transferee forums, a consideration that is particularly important here because, as set forth below, it is clear that no single district is home to a majority of parties, witnesses and documents.<sup>6</sup>

As the following chart demonstrates, Defendants are spread throughout the country:

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<sup>6</sup> Although the Northern District of Illinois Plaintiff advocates transfer to the Northern District of Illinois because four of the thirteen Defendants are allegedly "located in, or in close proximity to," the Northern District of Illinois, it is clear from the brief in support of its Motion that at most two Defendants are located within the Northern District of Illinois and no other Defendant is located within 100 miles of the Northern District of Illinois' courthouse. *See* Memorandum in Support of Northern District of Illinois Plaintiff's Motion, at pp. 9-10.

<b>DEFENDANT</b>	<b>LOCATION OF PRINCIPAL PLACE OF BUSINESS</b>
Honeywell International, Inc. ("Honeywell")	Morristown, New Jersey
Champion	Albion, Illinois
Purolator Filters N.A. L.L.C.	Fayetteville, North Carolina
Wix Filtration Corp. LLC	Gastonia, North Carolina
Cummins Filtration, Inc.	Nashville, Tennessee
Donaldson Company, Inc.	Minneapolis, Minnesota
Baldwin Filters, inc.	Kearney, Nebraska
Robert Bosch LLC	Broadview, Illinois
Mann + Hummel U.S.A., inc.	Portage, Michigan
ArvinMeritor, inc.	Troy, Michigan
United Components, Inc.	Evansville, Indiana
Bosch U.S.A.	Broadview, Illinois
The Carlyle Group	Washington, D.C.

Given this geographic dispersion, there are a number of districts which can claim proximity to certain documents, parties and witnesses.<sup>7</sup> However, the district which offers the greatest ease of access to the widespread parties and witnesses should be given deference. The Related Actions filed in the District of New Jersey have been assigned to the Newark division, which is the most accessible locale among the proposed transferee forums.

Three of the largest airports in the United States are within 25 miles of the courthouse for the District of New Jersey's Newark division: Newark Liberty

<sup>7</sup> Of the proposed transferee districts that are home to parties, witnesses and documents in this litigation, the District of New Jersey is noteworthy because it is the location of a major defendant in this case, Honeywell International, Inc., whose principal place of business is in Morristown, New Jersey.

International Airport, John F. Kennedy International Airport, and LaGuardia Airport. According to the most recent U.S. Department of Transportation Statistics, each of these airports ranks among the top 20 airports in the country, as measured by the number of total flights. *See* <http://www.transtats.bts.gov/airports.asp>. Further, Newark is served by Amtrak trains running from both Manhattan and Washington, D.C., where certain counsel in this case are located, and thus offers a convenient alternative means of transportation to some participants in this litigation. In addition, between Newark and the nearby Northern New Jersey metropolitan region, there are literally hundreds of choices as to lodging.

No other proposed transferee district can offer the same number of options for traveling counsel and parties. The only other proposed transferee districts that can claim a remotely comparable set of conveniences are the Northern District of Illinois, in Chicago, and the Southern District of Illinois' East St. Louis Division.<sup>8</sup> The District of Connecticut's New Haven location, by contrast, is located 36 miles from the closest major airport, Bradley International Airport ("Bradley"). *See* Memorandum in Support of Connecticut Plaintiffs' Motion, p. 11. More importantly, Bradley's website estimates that New Haven is an hour's drive from the airport. *See* <http://www.bradleyairport.com/Directions/directions.aspx>, attached hereto as Exhibit A.<sup>9</sup>

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<sup>8</sup> The Southern District of Illinois, in East St. Louis, is proximate only to St. Louis' Lambert International Airport, however, which is not among the top 30 airports in the country with respect to total annual flights. *See* <http://www.transtats.bts.gov/airports.asp>.

<sup>9</sup> While New Haven is also served by Tweed New Haven Regional Airport ("Tweed"), Tweed's website lists an extremely limited flight schedule, solely showing flights to and from Philadelphia International Airport. *See* <http://www.flytweed.com/flights.html>.

2. **The District of New Jersey Has the Necessary Expertise and Efficiency to Manage This Multidistrict Litigation**

a. **Expertise**

The first-filed Related Action in the District of New Jersey has been assigned to Judge Katharine S. Hayden, who has ten years of experience on the federal bench. Prior to her appointment, she served as an Assistant U.S. Attorney for the District of New Jersey and as a judge of the Superior Court of New Jersey. Judge Hayden has significant expertise and experience in handling complex class action and antitrust litigation. *See Jones v. Chubb Inst.*, No. 06-4937, 2007 U.S. Dist. Lexis 72606 (D.N.J. Sept. 28, 2007) (class action asserting claims under New Jersey Consumer Fraud Act); *In re Schering-Plough Corp. Erisa Litig.*, No. 03-1204, 2007 U.S. Dist. Lexis 59708 (D.N.J. Aug. 15, 2007) (class action under ERISA); *Video Serv. of Am., Inc. v. Maxell Corp. of Am.*, No. 04-2594, 2007 U.S. Dist. Lexis 54107 (D.N.J. July 26, 2007) (plaintiff asserted claims under Robinson-Patman Act); *In re Schering-Plough Corp. Sec. Litig.*, No. 01-0829, 2003 U.S. Dist. Lexis 26297 (D.N.J. Oct. 10, 2003) (class action alleging violations of sections 10(b), 20(a), and 20A of the Securities Exchange Act of 1934); *Schnall v. Amboy Nat'l Bank*, No. 99-4908, 2002 U.S. Dist. Lexis 17879 (D.N.J. July 12, 2002) (class action brought under federal Truth in Savings Act, 12 U.S.C.S. § 4301, *et seq.*); *Kowslowe v. Dime Mortg. (In re Kowslowe)*, No. 97-960, 1999 U.S. Dist. Lexis 21212 (D.N.J. Jan. 7, 1999) (class action brought under Real Estate Settlement Procedures Act).

The two Related Actions subsequently filed in the District of New Jersey have been assigned to Judge William H. Walls. Judge Walls has 13 years experience on the federal bench and, like Judge Hayden, previously served as a judge of the New Jersey Superior Court. Judge Walls has presided over two major antitrust price fixing class

actions and, in these actions, demonstrated the ability to manage cases similar in size and subject matter to the Aftermarket Filters litigation. *See, e.g., In re Bulk [Extruded] Graphite Prods. Antitrust Litig.*, No. 02-6030 (D.N.J. Apr. 10, 2008) (final approval of class settlement granted on April 10, 2008); *In re Mercedes-Benz Antitrust Litig.*, No. 99-4311 (D.N.J. Apr. 18, 2008) (final approval of class settlement granted on April 18, 2008).

**b. Efficiency**

In selecting the most appropriate transferee forum for multidistrict litigation, the Panel considers the speed and efficiency with which alternative districts manage their respective caseloads. Statistics measuring median time from filing to disposition of civil actions are a strong indicator of how efficiently a court can manage complex multidistrict litigation. *See, e.g., In re Preferential Drug Prods. Pricing Antitrust Litig.*, 429 F. Supp. 1027, 1029 (J.P.M.L. 1977) (transferring cases based in part upon transferee court's low median time between filing and disposition in civil actions); *In re Corn Derivatives Antitrust Litig.*, 486 F. Supp. 929, 932 (J.P.M.L. 1980) (faster docket cited as a consideration for selecting transferee court); *In re Transit Co. Tire Antitrust Litig.*, 350 F. Supp. 1165, 1166 (J.P.M.L. 1972) (transferee district had the lowest median interval from filing of a civil complaint to trial).

As of September 30, 2007, the District of New Jersey's median time from filing to disposition of civil actions was 7.6 months. *See* <http://www.uscourts.gov/cgi-bin/cmsd2007.pl>, attached hereto as Exhibit B. This statistic compares favorably with the District of Connecticut's 10.5 months, the Southern District of Illinois' 8.5 months, and the Northern District of Illinois' 6.2 months. *See* <http://www.uscourts.gov/cgi->



bin/cmsd2007.pl, attached hereto as Exhibit C. Although the Northern District of Illinois enjoys a slight edge over the District of New Jersey with respect to median time from filing to disposition of civil cases, the Newark division of the District of New Jersey has only 13 pending multidistrict litigations, while the Northern District of Illinois has 17.

In selecting appropriate transferee districts, the Panel considers whether a proposed forum already has numerous pending multidistrict litigations. *See, e.g., In re Gator Corp. Software Trademark & Copyright Litig.*, 259 F. Supp. 2d 1378, 1380 (J.P.M.L. 2003) (transferring to a forum that “is not currently overtaxed with other multidistrict dockets”); *In re Serzone Products Liab. Litig.*, 217 F. Supp. 2d 1372, 1374 (J.P.M.L. 2002) (ordering “assignment to a transferee district that is not currently overtaxed with other multidistrict dockets”). Judge Hayden is not currently presiding over any multidistrict proceedings, while Judge Robert Gettleman, to whom one of the Related Actions pending in the Northern District of Illinois has been assigned, is also presiding over *In re Trans Union Corporation Privacy Litigation*, MDL No. 1350.<sup>10</sup> While Judge Walls is currently presiding over *In re Cendant Corporation Securities Litigation*, MDL No. 1292, the final settlement with the class in the *Cendant* case was approved in 2000 (a mere two years after the litigation began) and the litigation is now centered on third-party claims. *See In re Cendant Corp. Sec. Litig.*, 109 F. Supp. 2d 235 (D.N.J. 2000). Given the posture of the *Cendant* litigation, Judge Walls’ ability to handle this litigation will not be impaired. Furthermore, the District of New Jersey has only 316

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<sup>10</sup> Also worth noting is that Judge G. Patrick Murphy of the Southern District of Illinois, to whom the first-filed Related Action in that district was assigned, is currently presiding over two MDL actions, *In re General Motors Corporation Dex-Cool Products Liability Litigation* (MDL No. 1562) and *In re Profiler Products Liability Litigation* (MDL No. 1748). *See* [http://www.jpml.uscourts.gov/Docket\\_Info/Pending\\_Dockets/pending\\_dockets.html](http://www.jpml.uscourts.gov/Docket_Info/Pending_Dockets/pending_dockets.html).

cases that are more than three years old, while the Northern District of Illinois has 456.

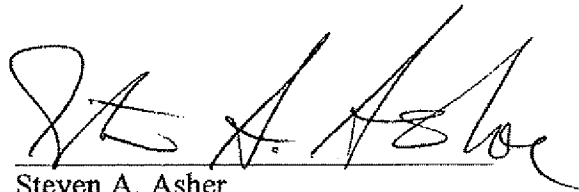
See Exhibits B and C.

Consequently, it is clear that efficiency is best served by transfer to the District of New Jersey.

### III. CONCLUSION

For the foregoing reasons, the United States District Court for the District of New Jersey is the most appropriate forum for the Related Actions because it will best promote the just and efficient conduct of these actions. Consequently, Plaintiffs Worldwide Equipment, Inc. and Central Warehouse Sales Corporation's Joint Motion for Transfer of Actions to the District of New Jersey Pursuant to 28 U.S.C. § 1407 for Centralized Pretrial Proceedings should be granted.

DATED: May 20, 2008



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## **EXHIBIT A**



Date/Time: 5/20/2008 - 10:01 AM

Weather: 61

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Unlike big city airports in the Northeast, Bradley is easy to locate and eas access. That's why more and more people who are looking for hassle-free are turning to Bradley International.

**Bradley International Airport**  
11 Schoephoester Road  
Windsor Locks, CT 06096

**From the East:** Rt. 90 to Rt. 84 West to Rt. 291 West to Rt. 91 North to E

**From the West:** Rt. 84 East to Rt. 91 North to Exit 40

**From the South:** Rt. 95 North to Rt. 91 North to Exit 40

**From the North:** Rt. 91 South to Exit 40

☐ Drive times to/from major cities:

Albany, NY	2 hrs.	Norwalk, CT	1 hr. 20 min.
Boston, MA	2 hrs	Pittsfield, MA	1 hr. 10 min.
Brattleboro, VT	1 hr. 15 min.	Springfield, MA	15 min
Bridgeport, CT	1 hr. 15 min.	Stamford, CT	1 hr. 30 min.
Danbury, CT	1 hr.	Waterbury, CT	50 min.
Hartford, CT	15 min.	White Plains, NY	1 hr. 50 min.
New Haven, CT	1 hr.	Worcester, MA	1 hr.
New London, CT	1 hr. 10 min.		

## **EXHIBIT B**

# U.S. DISTRICT COURT - JUDICIAL CASELOAD PROFILE

				12-MONTH PERIOD ENDING SEPTEMBER 30							
NEW JERSEY				2007	2006	2005	2004	2003	2002	Numerical Standing	
OVERALL CASELOAD STATISTICS	Filings*			7,699	7,275	7,539	7,567	7,270	7,555	U.S.	Circuit
	Terminations			7,752	7,480	7,605	7,373	6,998	7,125		
	Pending			6,892	6,855	6,987	6,986	6,765	6,538		
	% Change in Total Filings	Over Last Year		5.8						21	1
		Over Earlier Years				2.1	1.7	5.9	1.9	32	3
	Number of Judgeships			17	17	17	17	17	17		
Vacant Judgeship Months**				.0	32.3	27.8	12.0	11.0	47.8		
ACTIONS PER JUDGESHIP	FILINGS	Total	454	428	444	446	428	445	38	3	
		Civil	392	369	387	390	370	387	23	3	
		Criminal Felony	51	51	48	46	48	49	71	3	
		Supervised Release Hearings**	11	8	9	10	10	9	82	3	
	Pending Cases			405	403	411	411	398	385	36	4
	Weighted Filings**			496	481	493	500	486	482	31	2
	Terminations			456	440	447	434	412	419	37	3
	Trials Completed			13	11	10	10	10	12	72	5
MEDIAN TIMES (months)	From Filing to Disposition	Criminal Felony	10.8	12.1	10.0	9.8	9.0	9.4	67	3	
		Civil**	7.6	8.2	7.3	7.6	7.9	8.4	24	3	
	From Filing to Trial** (Civil Only)		36.0	33.0	36.7	33.4	33.8	30.0	75	5	
OTHER	Civil Cases Over 3 Years Old**	Number	316	306	346	252	236	231			
		Percentage	5.3	5.2	5.7	4.2	4.0	4.0	56	3	
	Average Number of Felony Defendants Filed Per Case			1.2	1.2	1.3	1.2	1.2	1.2		
	Jurors	Avg. Present for Jury Selection	67.94	88.98	75.41	40.79	51.72	41.77			
		Percent Not Selected or Challenged	34.9	39.2	38.3	24.1	40.3	37.7			

## 2007 CIVIL AND CRIMINAL FELONY FILINGS BY NATURE OF SUIT AND OFFENSE

Type of	TOTAL	A	B	C	D	E	F	G	H	I	J	K	L
Civil	6657	205	630	1091	95	177	630	1013	710	420	924	35	727
Criminal*	846	4	258	37	109	219	46	36	9	21	32	25	50

\* Filings in the "Overall Caseload Statistics" section include criminal transfers, while filings "By Nature of Offense" do not.

\*\* See "Explanation of Selected Terms."

## **EXHIBIT C**



## U.S. DISTRICT COURT - JUDICIAL CASELOAD PROFILE

				12-MONTH PERIOD ENDING SEPTEMBER 30							
CONNECTICUT				2007	2006	2005	2004	2003	2002	Numerical Standing	
OVERALL CASELOAD STATISTICS	Filings*			2,437	2,460	2,530	2,717	2,752	2,816	U.S.	Circuit
	Terminations			2,767	2,641	2,690	2,644	2,596	3,027		
	Pending			2,822	3,121	3,276	3,407	3,337	3,190		
	% Change in Total Filings	Over Last Year		-9						44	3
		Over Earlier Years		-3.7		-10.3	-11.5	-13.5	64	3	
Number of Judgeships				8	8	8	8	8	8		
Vacant Judgeship Months**				5.8	12.0	11.0	.0	6.5	.0		
ACTIONS PER JUDGESHIP	FILINGS	Total	304	308	317	340	345	353	77	5	
		Civil	257	261	272	293	294	307	60	5	
		Criminal Felony	30	36	32	35	37	36	90	6	
		Supervised Release Hearings**	17	11	13	12	14	10	65	6	
	Pending Cases			353	390	410	426	417	399	53	5
	Weighted Filings**			368	376	379	409	396	420	68	5
	Terminations			346	330	336	331	325	378	71	5
	Trials Completed			10	12	15	16	17	20	88	6
MEDIAN TIMES (months)	From Filing to Disposition	Criminal Felony	12.4	13.9	12.2	11.4	9.5	10.9	82	3	
		Civil**	10.5	11.6	11.4	11.6	10.5	10.1	72	3	
	From Filing to Trial** (Civil Only)			27.0	29.8	32.4	31.0	30.0	31.0	54	3
	Civil Cases Over 3 Years Old**	Number	252	339	358	325	318	231			
Percentage		10.4	12.5	12.3	10.7	10.6	8.1	82	3		
OTHER	Average Number of Felony Defendants Filed Per Case			1.9	1.6	1.8	1.7	1.4	1.8		
	Jurors	Avg. Present for Jury Selection	60.26	52.82	56.95	63.51	54.54	46.25			
		Percent Not Selected or Challenged	35.5	32.4	38.6	32.7	31.7	34.2			

2007 CIVIL AND CRIMINAL FELONY FILINGS BY NATURE OF SUIT AND OFFENSE													
Type of	TOTAL	A	B	C	D	E	F	G	H	I	J	K	L
Civil	2056	50	48	265	47	20	122	291	205	115	496	5	392
Criminal*	234	1	69	11	29	59	8	14	9	9	3	9	13

\* Filings in the "Overall Caseload Statistics" section include criminal transfers, while filings "By Nature of Offense" do not.

\*\* See "Explanation of Selected Terms."

# U.S. DISTRICT COURT - JUDICIAL CASELOAD PROFILE

				12-MONTH PERIOD ENDING SEPTEMBER 30							
ILLINOIS SOUTHERN				2007	2006	2005	2004	2003	2002	Numerical Standing	
OVERALL CASELOAD STATISTICS	Filings*			1,407	1,529	1,606	1,578	1,552	3,248	U.S.	Circuit
	Terminations			1,578	1,617	1,597	1,504	1,457	3,263		
	Pending			1,266	1,429	1,515	1,500	1,417	1,332		
	% Change in Total Filings	Over Last Year		-8.0						75	5
		Over Earlier Years			-12.4	-10.8	-9.4	-56.7	93	7	
Number of Judgeships				4	4	4	4	4	4		
Vacant Judgeship Months**				.0	.0	.0	.0	.0	.0		
ACTIONS PER JUDGESHIP	FILINGS	Total	352	382	402	395	388	812	68	6	
		Civil	256	290	317	317	285	746	61	5	
		Criminal Felony	58	59	56	46	75	46	61	5	
		Supervised Release Hearings**	38	33	29	32	28	20	18	1	
	Pending Cases			317	357	379	375	354	333	64	5
	Weighted Filings**			341	352	386	390	399	468	72	7
	Terminations			395	404	399	376	364	816	60	4
	Trials Completed			32	27	27	18	19	23	14	1
MEDIAN TIMES (months)	From Filing to Disposition	Criminal Felony	9.6	9.2	10.4	8.8	6.8	7.3	61	5	
		Civil**	8.5	8.4	9.5	9.7	9.0	2.1	38	4	
	From Filing to Trial** (Civil Only)			31.5	20.0	29.3	20.0	23.0	18.0	69	6
OTHER	Civil Cases Over 3 Years Old**	Number	79	77	74	72	67	62			
		Percentage	7.5	6.2	5.7	5.4	5.5	5.2	74	7	
	Average Number of Felony Defendants Filed Per Case			1.6	1.4	1.7	1.7	1.6	1.9		
	Jurors	Avg. Present for Jury Selection	30.11	28.00	32.32	39.83	48.95	42.13			
		Percent Not Selected or Challenged	20.3	20.9	30.0	41.8	51.1	38.6			

2007 CIVIL AND CRIMINAL FELONY FILINGS BY NATURE OF SUIT AND OFFENSE													
Type of	TOTAL	A	B	C	D	E	F	G	H	I	J	K	L
Civil	1025	23	154	248	16	29	70	90	170	13	126	1	85
Criminal*	231	9	81	21	33	22	9	29	8	5	2	3	9

\* Filings in the "Overall Caseload Statistics" section include criminal transfers, while filings "By Nature of Offense" do not.

\*\* See "Explanation of Selected Terms."

## U.S. DISTRICT COURT - JUDICIAL CASELOAD PROFILE

				12-MONTH PERIOD ENDING SEPTEMBER 30							
ILLINOIS NORTHERN				2007	2006	2005	2004	2003	2002	Numerical Standing	
OVERALL CASELOAD STATISTICS	Filings*			8,422	8,093	9,056	10,584	11,126	11,135	U.S.	Circuit
	Terminations			7,929	8,255	8,805	11,461	10,888	10,709		
	Pending			8,091	7,711	7,914	7,706	8,699	8,587		
	% Change in Total Filings	Over Last Year		4.1						27	2
		Over Earlier Years				-7.0	-20.4	-24.3	-24.4	81	6
Number of Judgeships				22	22	22	22	22	22		
Vacant Judgeship Months**				15.8	5.7	12.0	9.6	22.1	17.8		
ACTIONS PER JUDGESHIP	FILINGS	Total	382	367	412	481	505	506	62	4	
		Civil	346	330	369	437	461	459	36	3	
		Criminal Felony	24	26	34	32	38	39	93	7	
		Supervised Release Hearings**	12	11	9	12	6	8	77	6	
	Pending Cases			368	351	360	350	395	390	48	3
	Weighted Filings**			462	443	485	512	526	525	39	3
	Terminations			360	375	400	521	495	487	66	5
	Trials Completed			11	11	13	12	12	14	86	6
MEDIAN TIMES (months)	From Filing to Disposition	Criminal Felony	14.7	13.9	12.9	10.3	9.9	10.3	90	7	
		Civil**	6.2	6.5	6.9	5.9	5.5	5.5	7	2	
	From Filing to Trial** (Civil Only)			29.7	26.4	27.0	28.4	26.0	26.0	65	5
OTHER	Civil Cases Over 3 Years Old**	Number	456	500	388	337	442	461			
		Percentage	6.5	7.4	5.6	5.0	5.6	6.0	65	6	
	Average Number of Felony Defendants Filed Per Case			1.7	1.8	1.9	1.9	1.7	1.7		
	Jurors	Avg. Present for Jury Selection	45.20	45.07	51.46	39.36	45.57	43.63			
		Percent Not Selected or Challenged	31.8	30.9	36.9	31.0	37.3	34.8			

### 2007 CIVIL AND CRIMINAL FELONY FILINGS BY NATURE OF SUIT AND OFFENSE

Type of	TOTAL	A	B	C	D	E	F	G	H	I	J	K	L
Civil	7620	118	150	701	53	55	1504	902	563	428	1614	23	1509
Criminal*	527	1	152	59	43	107	80	13	6	17	11	11	27

\* Filings in the "Overall Caseload Statistics" section include criminal transfers, while filings "By Nature of Offense" do not.

\*\* See "Explanation of Selected Terms."